

SENATE BILL NO. 150

INTRODUCED BY BARTLETT
BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

IN THE SENATE

JANUARY 14, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 29, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 30, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 1, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 15, 1993	SECOND READING, CONCURRED IN.
MARCH 18, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 5.
MARCH 19, 1993	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 24, 1993	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS

MARCH 25, 1993

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 150
2 INTRODUCED BY Bartlett
3 BY REQUEST OF THE DEPARTMENT OF
4 SOCIAL AND REHABILITATION SERVICES

6 A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING WITH FEDERAL
7 LAW THE STATE CHILD SUPPORT ENFORCEMENT LAWS RELATING TO
8 CHILD SUPPORT GUIDELINES AND PATERNITY BLOOD TESTING FEES;
9 AMENDING SECTIONS 40-4-204, 40-5-210, 40-5-226, AND
10 40-6-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13 **Section 1.** Section 40-4-204, MCA, is amended to read:

14 "40-4-204. Child support -- orders to address health
15 insurance -- withholding of child support. (1) In a
16 proceeding for dissolution of marriage, legal separation,
17 maintenance, or child support, the court shall order either
18 or both parents owing a duty of support to a child to pay an
19 amount reasonable or necessary for his the child's support,
20 without regard to marital misconduct.

21 (2) The court shall consider all relevant factors,
22 including:

23 (a) the financial resources of the child;
24 (b) the financial resources of the custodial parent;
25 (c) the standard of living the child would have enjoyed

1 had the marriage not been dissolved;

2 (d) the physical and emotional condition of the child

3 and his the child's educational and medical needs;

4 (e) the financial resources and needs of the

5 noncustodial parent;

6 (f) the age of the child;

7 (g) the cost of day care for the child;

8 (h) any custody arrangement that is ordered or decided

9 upon; and

10 (i) the needs of any person, other than the child, whom

11 either parent is legally obligated to support.

12 (3) (a) Whenever a court issues or modifies an order

13 concerning child support, the court shall determine the

14 child support obligation by applying the standards in this

15 section and the uniform child support guidelines adopted by

16 the department of social and rehabilitation services

17 pursuant to 40-5-2097. The guidelines must be used in all

18 cases, including cases in which the order is entered upon

19 the default of a party and those in which the parties have

20 entered into an agreement regarding the support amount. A

21 verified representation of the defaulting parent's income,

22 based on the best information available, may be used when a

23 parent fails to provide financial information for use in

24 applying the guidelines. The amount determined under the

25 guidelines is presumed to be an adequate and reasonable



1 support award, unless the court finds by clear and
 2 convincing evidence that the application of the standards
 3 and guidelines is unjust to the child or to any of the
 4 parties or is inappropriate in that particular case.

5 (b) If the court ~~does--not--apply--these--standards--and~~
 6 ~~guidelines--to--determine--child--support~~ finds that the
 7 guideline amount is unjust or inappropriate in a particular
 8 case, it shall state its reasons for finding that the
 9 application of such the standards and guidelines is unjust
 10 to the child or a party or is inappropriate in that
 11 particular case. Similar reasons must also be stated in a
 12 case in which the parties have agreed to a support amount
 13 that varies from the guideline amount. Findings that rebut
 14 and vary the guideline amount must include a statement of
 15 the amount of support that would have ordinarily been
 16 ordered under the guidelines.

17 (c) If the court does not order a parent owing a duty
 18 of support to a child to pay any amount for the child's
 19 support, the court shall state its reasons for not ordering
 20 child support.

21 (4) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 title and each modification of a final order for child
 24 support must include a provision addressing health insurance
 25 coverage in the following cases:

1 (a) If either party has available through an employer
 2 or other organization health insurance coverage for the
 3 child or children for which the premium is partially or
 4 entirely paid by the employer or organization, the judgment,
 5 decree, or order may contain a provision requiring that
 6 coverage for the child or children be continued or obtained.

7 (b) In the event that health insurance required in a
 8 child support judgment, decree, or order becomes unavailable
 9 to the party who is to provide it, through loss or change of
 10 employment or otherwise, that party must, in the absence of
 11 an agreement to the contrary, obtain comparable insurance or
 12 request that the court modify the requirement.

13 (c) All temporary child support orders must contain a
 14 provision requiring the party who has health insurance in
 15 effect for the child or children of the parties to continue
 16 the insurance coverage pending final disposition of the
 17 case.

18 (d) The parties may by written agreement provide for
 19 the health care coverage required by this section, subject
 20 to the approval of the court.

21 (e) Unless otherwise provided in the decree, the health
 22 care coverage required by this section is in addition to and
 23 not in substitution, in whole or in part, for the child
 24 support obligation.

25 (5) (a) Unless the court makes a written exception

1 under 40-5-315 or 40-5-411 and the exception is included in
 2 the support order, a support obligation established by
 3 judgment, decree, or order under this section, whether
 4 temporary or final, and each modification of an existing
 5 support obligation under 40-4-208 must be enforced by
 6 immediate or delinquency income withholding, or both, under
 7 Title 40, chapter 5, part 3 or 4. A support order that omits
 8 the written exceptions provided in 40-5-315 or 40-5-411 or
 9 that provides for a payment arrangement inconsistent with
 10 this section is nevertheless subject to withholding for the
 11 payment of support without need for an amendment to the
 12 support order or for any further action by the court.

13 (b) If an obligor is exempt from immediate income
 14 withholding, the district court judgment or order must
 15 include a warning statement that if the obligor is
 16 delinquent in the payment of support, the obligor's income
 17 may be subject to income withholding procedures under Title
 18 40, chapter 5, part 3 or 4. Failure to include a warning
 19 statement in a judgment or order does not preclude the use
 20 of withholding procedures.

21 (6) For the purposes of income withholding under
 22 subsection (5), every district court judgment, decree, or
 23 order that establishes or modifies a child support
 24 obligation must include a provision requiring the parent
 25 obligated to pay support to inform the court and, if the

1 department of social and rehabilitation services is
 2 providing services under Title IV-D of the Social Security
 3 Act for the enforcement of the judgment, decree, or order,
 4 the department, of the following:

5 (a) the name and address of the parent's current
 6 employer;

7 (b) whether the parent has access to health insurance
 8 through an employer or other group; and

9 (c) if insurance coverage is available, the health
 10 insurance policy information.

11 (7) If the department of social and rehabilitation
 12 services is providing or later provides support enforcement
 13 services under Title IV-D of the Social Security Act, each
 14 district court order or modification of an order must
 15 contain a statement providing that the noncustodial parent,
 16 without further order of the court, is required to obtain
 17 and maintain health insurance coverage as provided in
 18 40-5-208. Failure to include a warning statement in the
 19 judgment or order does not preclude the imposition of
 20 sanctions under 40-5-208.

21 (8) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 part and each modification of a final order for child
 24 support must contain a statement that the order is subject
 25 to review and modification by the department of social and

rehabilitation services upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order."

Section 2. Section 40-5-210, MCA, is amended to read:

"40-5-210. Standardized fee schedule. (1) The department shall by rule establish a standardized schedule of fees for the recovery of administrative costs and expenses of child support enforcement. The fees may be recovered from an obligor if the obligor's failure or refusal to support a child makes it necessary for the department to provide child support enforcement services under this part. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(2) If paternity is established for the alleged father, the fees for paternity blood testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed the actual costs of the paternity blood tests.

(3) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department must be awarded costs in the amount established in the fee

schedule as part of any judgment, decree, or order in which the department is the prevailing party.

(4) Fees awarded under this section are in the nature of child support and are collectible in the same manner as a support order. The fee award may be collected separately or added to and collected with any balance due on a support debt.

(5) Collection of a fee award may not reduce any current child support payment due the obligee.

(6) Arrearage amounts collected that include a fee must be allocated as follows:

(a) If the obligee is a recipient of public assistance, the amount must be allocated first to satisfy the fee.

(b) If the obligee is not a recipient of public assistance, the first 10% of each amount collected must be allocated to satisfy the fee.

(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section."

Section 3. Section 40-5-226, MCA, is amended to read:

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) At the discretion of the hearing officer, the administrative hearing may be held:

(a) in the county of residence or other county convenient to the obligor or obligee; or

(b) in the county in which the department or any of its offices are located.

(3) If a hearing is requested, it must be scheduled within 20 days.

(4) The hearing officer shall determine the liability and responsibility, if any, of the obligor under the notice and shall enter a final decision and order in accordance with such the determination.

(5) If the obligor fails to appear at the hearing or fails to timely request a hearing, the hearing officer, upon a showing of valid service, shall enter a decision and order declaring the amount stated in the notice to be final.

(6) In a hearing to determine financial responsibility, whether temporary or final, and in any proceeding to modify support under 40-5-273, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the ~~scale--of--suggested--minimum~~ contributions uniform child support guidelines adopted by the department under ~~40-5-214~~ 40-5-209. The hearing officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the order entered upon the parties' consent.

A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the hearing officer finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearing officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearing officer shall state the reasons for finding that the application of the standards and guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(7) Within 20 days of the hearing, the hearing officer shall enter a final decision and order. The determination of the hearing officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions of the Montana Administrative Procedure Act.

(8) A support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under IV-D for the enforcement of the order.

(9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearing officer.

(10) A support debt or a support responsibility determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearing officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure.

(11) Unless the hearing officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, every order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for a payment arrangement inconsistent with this section is

nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearing officer.

(12) For the purposes of income withholding provided for in subsection (11), whenever the department establishes or modifies a child support obligation, the department's order must include a provision requiring the obligor, for as long as the department is providing support enforcement services, to keep the department informed of the name and address of the obligor's current employer, whether the obligor has access to health insurance through an employer or other group, and, if so, the health insurance policy information."

Section 4. Section 40-6-116, MCA, is amended to read:

"40-6-116. Judgment or order. (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a substitute birth certificate be issued under 40-6-123.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the custody and guardianship of the child, visitation privileges with the child, the furnishing

1 of bond or other security for the payment of the judgment,
2 or any other matter in the best interest of the child.

3 (b) Except when the financial responsibility of a
4 responsible parent is in the process of being determined
5 pursuant to the administrative procedure provided in
6 40-5-225, the judgment or order must contain a provision
7 concerning the duty of child support.

8 (c) The judgment or order may direct the father to pay
9 the reasonable expenses of the mother's pregnancy and
10 confinement.

11 (4) (a) Support judgments or orders ordinarily ~~shall~~
12 must be for periodic payments, which may vary in amount.

13 (b) In the best interest of the child, a lump-sum
14 payment or the purchase of an annuity may be ordered in lieu
15 of periodic payments of support.

16 (c) The court may limit the father's liability for past
17 support of the child to the proportion of the expenses
18 already incurred that the court ~~deems~~ considers just.

19 (5) In determining the amount to be paid by a parent
20 for support of the child and the period during which the
21 duty of support is owed, a court enforcing the obligation of
22 support shall consider all relevant facts, including:

23 (a) the needs of the child, including ~~his~~ medical
24 needs;

25 (b) the standard of living and circumstances of the

1 parents;

2 (c) the relative financial means of the parents;

3 (d) the earning ability of the parents;

4 (e) the need and capacity of the child for education,
5 including higher education;

6 (f) the age of the child;

7 (g) the financial resources and the earning ability of
8 the child;

9 (h) the responsibility of the parents for the support
10 of others;

11 (i) the value of services contributed by the custodial
12 parent;

13 (j) the cost of day care for the child; and

14 (k) any custody arrangement that is ordered or decided
15 upon.

16 (6) (a) Whenever a court issues or modifies an order
17 concerning child support, the court shall determine the
18 child support obligation by applying the standards in this
19 section and the uniform child support guidelines adopted by
20 the department of social and rehabilitation services
21 pursuant to 40-5-209. The guidelines must be used in all
22 cases, including cases in which the order is entered upon
23 the default of a party and those in which the parties have
24 entered into an agreement regarding the support amount. A
25 verified representation of a defaulting parent's income,

1 based on the best information available, may be used when a
 2 parent fails to provide financial information for use in
 3 applying the guidelines. The amount determined under the
 4 guidelines is presumed to be an adequate and reasonable
 5 support award, unless the court finds by clear and
 6 convincing evidence that the application of the standards
 7 and guidelines is unjust to the child or to any of the
 8 parties or is inappropriate in that particular case.

9 (b) ~~If the court does not apply these standards and~~
 10 ~~guidelines to determine child support~~ finds that the
 11 guideline amount is unjust or inappropriate in a particular
 12 case, it shall state its reasons for finding that the
 13 application of such the standards and guidelines is unjust
 14 to the child or a party or is inappropriate in that
 15 particular case. Similar reasons must also be stated in a
 16 case in which the parties have agreed to a support amount
 17 that varies from the guideline amount. Findings that rebut
 18 and vary the guideline amount must include a statement of
 19 the amount of support that would have ordinarily been
 20 ordered under the guidelines.

21 (c) If the court does not order a parent owing a duty
 22 of support to a child to pay any amount for the child's
 23 support, the court shall state its reasons for not ordering
 24 child support.

25 (7) The judgment or order concerning child support and

1 each modification of a judgment or order for child support
 2 must include a provision addressing health insurance
 3 coverage in the following cases:

4 (a) If either party has available through an employer
 5 or other organization health insurance coverage for the
 6 child or children for which the premium is partially or
 7 entirely paid by the employer or organization, the judgment
 8 or order may contain a provision requiring that coverage for
 9 the child or children be continued or obtained.

10 (b) In the event that health insurance required in a
 11 child support judgment or order becomes unavailable to the
 12 party who is to provide it, through loss or change of
 13 employment or otherwise, that party shall, in the absence of
 14 an agreement to the contrary, obtain comparable insurance or
 15 request that the court modify the requirement.

16 (c) The parties may by written agreement provide for
 17 the health care coverage required by this section, subject
 18 to the approval of the court.

19 (d) Unless otherwise provided in the decree, the health
 20 care coverage required by this section is in addition to and
 21 not in substitution, in whole or in part, for the child
 22 support obligation.

23 (8) Unless an exception is found under 40-5-315 or
 24 40-5-411 and the exception is included in the support order,
 25 a support obligation established by judgment, decree, or

order under this section, whether temporary or final, and each modification of an existing support obligation made under 40-6-118 must be enforced by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 3 or 4. A support order that omits the exception or that provides for a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment to the support order or for any further action by the court.

(9) For the purposes of income withholding as provided in subsection (8), whenever the district court establishes or modifies a child support obligation, the judgment, decree, or order must include a provision requiring the parent obligated to pay support to inform the court and, if the department of social and rehabilitation services is providing services under Title IV-D of the Social Security Act for the enforcement of the judgment, decree, or order, the department, of the following:

(a) the name and address of the parent's current employer;

(b) whether the parent has access to health insurance through an employer or other group; and

(c) if insurance coverage is available, the health insurance policy information.

(10) If the department of social and rehabilitation

services is providing or later provides support enforcement services under Title IV-D of the Social Security Act, each district court order or modification of an order must contain a statement providing that the noncustodial parent, without further order of the court, is required to obtain and maintain health insurance coverage as provided in 40-5-208. Failure to include a warning statement in the judgment or order does not preclude the imposition of sanctions under 40-5-208.

(11) Each district court judgment, decree, or order establishing a final child support obligation under this part and each modification of a final order for child support must contain a statement that the order is subject to review and modification by the department of social and rehabilitation services upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order."

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARYSENATE BILL NO. 150
INTRODUCED BY BARTLETT
BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING WITH FEDERAL LAW THE STATE CHILD SUPPORT ENFORCEMENT LAWS RELATING TO CHILD SUPPORT GUIDELINES AND PATERNITY BLOOD TESTING FEES; AMENDING SECTIONS 40-4-204, 40-5-210, 40-5-226, AND 40-6-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 40-4-204, MCA, is amended to read:

"40-4-204. Child support -- orders to address health insurance -- withholding of child support. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his the child's support, without regard to marital misconduct.

(2) The court shall consider all relevant factors, including:

- (a) the financial resources of the child;
- (b) the financial resources of the custodial parent;
- (c) the standard of living the child would have enjoyed

had the marriage not been dissolved;

(d) the physical and emotional condition of the child and his the child's educational and medical needs;

(e) the financial resources and needs of the noncustodial parent;

(f) the age of the child;

(g) the cost of day care for the child;

(h) any custody arrangement that is ordered or decided upon; and

(i) the needs of any person, other than the child, whom either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of social and rehabilitation services pursuant to 40-5-209~~7~~. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of the defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable

1 support award, unless the court finds by clear and
 2 convincing evidence that the application of the standards
 3 and guidelines is unjust to the child or to any of the
 4 parties or is inappropriate in that particular case.

5 (b) If the court ~~does--not--apply--these--standards--and~~
 6 ~~guidelines--to--determine--child--support~~ finds that the
 7 guideline amount is unjust or inappropriate in a particular
 8 case, it shall state its reasons for finding that the
 9 application of such the standards and guidelines is unjust
 10 to the child or a party or is inappropriate in that
 11 particular case. Similar reasons must also be stated in a
 12 case in which the parties have agreed to a support amount
 13 that varies from the guideline amount. Findings that rebut
 14 and vary the guideline amount must include a statement of
 15 the amount of support that would have ordinarily been
 16 ordered under the guidelines.

17 (c) If the court does not order a parent owing a duty
 18 of support to a child to pay any amount for the child's
 19 support, the court shall state its reasons for not ordering
 20 child support.

21 (4) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 title and each modification of a final order for child
 24 support must include a provision addressing health insurance
 25 coverage in the following cases:

1 (a) If either party has available through an employer
 2 or other organization health insurance coverage for the
 3 child or children for which the premium is partially or
 4 entirely paid by the employer or organization, the judgment,
 5 decree, or order may contain a provision requiring that
 6 coverage for the child or children be continued or obtained.

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 8 child support judgment, decree, or order becomes unavailable
 9 to the party who is to provide it, through loss or change of
 10 employment or otherwise, that party must, in the absence of
 11 an agreement to the contrary, obtain comparable insurance or
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 14 provision requiring the party who has health insurance in
 15 effect for the child or children of the parties to continue
 16 the insurance coverage pending final disposition of the
 17 case.

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 19 the health care coverage required by this section, subject
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 22 care coverage required by this section is in addition to and
 23 not in substitution, in whole or in part, for the child
 24 support obligation.

25 (5) (a) Unless the court makes a written exception

1 under 40-5-315 or 40-5-411 and the exception is included in
 2 the support order, a support obligation established by
 3 judgment, decree, or order under this section, whether
 4 temporary or final, and each modification of an existing
 5 support obligation under 40-4-208 must be enforced by
 6 immediate or delinquency income withholding, or both, under
 7 Title 40, chapter 5, part 3 or 4. A support order that omits
 8 the written exceptions provided in 40-5-315 or 40-5-411 or
 9 that provides for a payment arrangement inconsistent with
 10 this section is nevertheless subject to withholding for the
 11 payment of support without need for an amendment to the
 12 support order or for any further action by the court.

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 14 withholding, the district court judgment or order must
 15 include a warning statement that if the obligor is
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 17 may be subject to income withholding procedures under Title
 18 40, chapter 5, part 3 or 4. Failure to include a warning
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 20 of withholding procedures.

21 (6) For the purposes of income withholding under
 22 subsection (5), every district court judgment, decree, or
 23 order that establishes or modifies a child support
 24 obligation must include a provision requiring the parent
 25 obligated to pay support to inform the court and, if the

1 department of social and rehabilitation services is
 2 providing services under Title IV-D of the Social Security
 3 Act for the enforcement of the judgment, decree, or order,
 4 the department, of the following:

5 (a) the name and address of the parent's current
 6 employer;

7 (b) whether the parent has access to health insurance
 8 through an employer or other group; and

9 (c) if insurance coverage is available, the health
 10 insurance policy information.

11 (7) If the department of social and rehabilitation
 12 services is providing or later provides support enforcement
 13 services under Title IV-D of the Social Security Act, each
 14 district court order or modification of an order must
 15 contain a statement providing that the noncustodial parent,
 16 without further order of the court, is required to obtain
 17 and maintain health insurance coverage as provided in
 18 40-5-208. Failure to include a warning statement in the
 19 judgment or order does not preclude the imposition of
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 22 establishing a final child support obligation under this
 23 part and each modification of a final order for child
 24 support must contain a statement that the order is subject
 25 to review and modification by the department of social and

rehabilitation services upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order."

Section 2. Section 40-5-210, MCA, is amended to read:

"40-5-210. Standardized fee schedule. (1) The department shall by rule establish a standardized schedule of fees for the recovery of administrative costs and expenses of child support enforcement. The fees may be recovered from an obligor if the obligor's failure or refusal to support a child makes it necessary for the department to provide child support enforcement services under this part. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(2) If paternity is established OR PRESUMED UNDER 40-5-234 for the alleged father, the fees for paternity blood testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed the actual costs of the paternity blood tests.

†2†(3) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department

must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order in which the department is the prevailing party.

†3†(4) Fees awarded under this section are in the nature of child support and are collectible in the same manner as a support order. The fee award may be collected separately or added to and collected with any balance due on a support debt.

†4†(5) Collection of a fee award may not reduce any current child support payment due the obligee.

†5†(6) Arrearage amounts collected that include a fee must be allocated as follows:

(a) If the obligee is a recipient of public assistance, the amount must be allocated first to satisfy the fee.

(b) If the obligee is not a recipient of public assistance, the first 10% of each amount collected must be allocated to satisfy the fee.

†6†(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section."

Section 3. Section 40-5-226, MCA, is amended to read:

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) At the discretion of the hearing officer, the

administrative hearing may be held:

(a) in the county of residence or other county convenient to the obligor or obligee; or

(b) in the county in which the department or any of its offices are located.

(3) If a hearing is requested, it must be scheduled within 20 days.

(4) The hearing officer shall determine the liability and responsibility, if any, of the obligor under the notice and shall enter a final decision and order in accordance with such the determination.

(5) If the obligor fails to appear at the hearing or fails to timely request a hearing, the hearing officer, upon a showing of valid service, shall enter a decision and order declaring the amount stated in the notice to be final.

(6) In a hearing to determine financial responsibility, whether temporary or final, and in any proceeding to modify support under 40-5-273, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the scale--of--suggested--minimum contributions uniform child support guidelines adopted by the department under 40-5-214 40-5-209. The hearing officer is not limited to the amounts stated in the notice. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and

those in which the order entered upon the parties' consent. A verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the hearing officer finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in a particular case. If the hearing officer finds that the guideline amount is unjust or inappropriate in a particular case, the hearing officer shall state the reasons for finding that the application of the standards and guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar findings must also be made in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(7) Within 20 days of the hearing, the hearing officer shall enter a final decision and order. The determination of the hearing officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions

1 of the Montana Administrative Procedure Act.

2 (8) A support order entered under this part must
3 contain a statement that the order is subject to review and
4 modification by the department upon the request of the
5 department or a party under 40-5-271 through 40-5-273 when
6 the department is providing services under IV-D for the
7 enforcement of the order.

8 (9) A support debt determined pursuant to this section
9 is subject to collection action without further necessity of
10 action by the hearing officer.

11 (10) A support debt or a support responsibility
12 determined under this part by reason of the obligor's
13 failure to request a hearing under this part or failure to
14 appear at a scheduled hearing may be vacated, upon the
15 motion of an obligor, by the hearing officer within the time
16 provided and upon a showing of any of the grounds enumerated
17 in the Montana Rules of Civil Procedure.

18 (11) Unless the hearing officer makes a written
19 exception under 40-5-315 or 40-5-411 and the exception is
20 included in the support order, every order establishing a
21 child support obligation, whether temporary or final, and
22 each modification of an existing child support order under
23 this part is enforceable by immediate or delinquency income
24 withholding, or both, under Title 40, chapter 5, part 4. A
25 support order that omits that provision or that provides for

1 a payment arrangement inconsistent with this section is
2 nevertheless subject to withholding for the payment of
3 support without need for an amendment of the support order
4 or for any further action by the hearing officer.

5 (12) For the purposes of income withholding provided for
6 in subsection (11), whenever the department establishes or
7 modifies a child support obligation, the department's order
8 must include a provision requiring the obligor, for as long
9 as the department is providing support enforcement services,
10 to keep the department informed of the name and address of
11 the obligor's current employer, whether the obligor has
12 access to health insurance through an employer or other
13 group, and, if so, the health insurance policy information."

14 **Section 4.** Section 40-6-116, MCA, is amended to read:

15 **"40-6-116. Judgment or order.** (1) The judgment or order
16 of the court determining the existence or nonexistence of
17 the parent and child relationship is determinative for all
18 purposes.

19 (2) If the judgment or order of the court is at
20 variance with the child's birth certificate, the court shall
21 order that a substitute birth certificate be issued under
22 40-6-123.

23 (3) (a) The judgment or order may contain any other
24 provision directed against the appropriate party to the
25 proceeding concerning the custody and guardianship of the

child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child.

(b) Except when the financial responsibility of a responsible parent is in the process of being determined pursuant to the administrative procedure provided in 40-5-225, the judgment or order must contain a provision concerning the duty of child support.

(c) The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) (a) Support judgments or orders ordinarily ~~shall~~ must be for periodic payments, which may vary in amount.

(b) In the best interest of the child, a lump-sum payment or the purchase of an annuity may be ordered in lieu of periodic payments of support.

(c) The court may limit the father's liability for past support of the child to the proportion of the expenses already incurred that the court ~~deems~~ considers just.

(5) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts, including:

(a) the needs of the child, including ~~his~~ medical needs;

(b) the standard of living and circumstances of the parents;

(c) the relative financial means of the parents;

(d) the earning ability of the parents;

(e) the need and capacity of the child for education, including higher education;

(f) the age of the child;

(g) the financial resources and the earning ability of the child;

(h) the responsibility of the parents for the support of others;

(i) the value of services contributed by the custodial parent;

(j) the cost of day care for the child; and

(k) any custody arrangement that is ordered or decided upon.

(6) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of social and rehabilitation services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A

verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court does--not-apply-these-standards-and-guidelines--to--determine--child--support finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for finding that the application of such the standards and guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(7) The judgment or order concerning child support and each modification of a judgment or order for child support must include a provision addressing health insurance coverage in the following cases:

(a) If either party has available through an employer or other organization health insurance coverage for the child or children for which the premium is partially or entirely paid by the employer or organization, the judgment or order may contain a provision requiring that coverage for the child or children be continued or obtained.

(b) In the event that health insurance required in a child support judgment or order becomes unavailable to the party who is to provide it, through loss or change of employment or otherwise, that party shall, in the absence of an agreement to the contrary, obtain comparable insurance or request that the court modify the requirement.

(c) The parties may by written agreement provide for the health care coverage required by this section, subject to the approval of the court.

(d) Unless otherwise provided in the decree, the health care coverage required by this section is in addition to and not in substitution, in whole or in part, for the child support obligation.

(8) Unless an exception is found under 40-5-315 or 40-5-411 and the exception is included in the support order,

1 a support obligation established by judgment, decree, or
 2 order under this section, whether temporary or final, and
 3 each modification of an existing support obligation made
 4 under 40-6-118 must be enforced by immediate or delinquency
 5 income withholding, or both, under Title 40, chapter 5, part
 6 3 or 4. A support order that omits the exception or that
 7 provides for a payment arrangement inconsistent with this
 8 section is nevertheless subject to withholding for the
 9 payment of support without need for an amendment to the
 10 support order or for any further action by the court.

11 (9) For the purposes of income withholding as provided
 12 in subsection (8), whenever the district court establishes
 13 or modifies a child support obligation, the judgment,
 14 decree, or order must include a provision requiring the
 15 parent obligated to pay support to inform the court and, if
 16 the department of social and rehabilitation services is
 17 providing services under Title IV-D of the Social Security
 18 Act for the enforcement of the judgment, decree, or order,
 19 the department, of the following:

20 (a) the name and address of the parent's current
 21 employer;

22 (b) whether the parent has access to health insurance
 23 through an employer or other group; and

24 (c) if insurance coverage is available, the health
 25 insurance policy information.

1 (10) If the department of social and rehabilitation
 2 services is providing or later provides support enforcement
 3 services under Title IV-D of the Social Security Act, each
 4 district court order or modification of an order must
 5 contain a statement providing that the noncustodial parent,
 6 without further order of the court, is required to obtain
 7 and maintain health insurance coverage as provided in
 8 40-5-208. Failure to include a warning statement in the
 9 judgment or order does not preclude the imposition of
 10 sanctions under 40-5-208.

11 (11) Each district court judgment, decree, or order
 12 establishing a final child support obligation under this
 13 part and each modification of a final order for child
 14 support must contain a statement that the order is subject
 15 to review and modification by the department of social and
 16 rehabilitation services upon the request of the department
 17 or a party under 40-5-271 through 40-5-273 when the
 18 department is providing services under Title IV-D of the
 19 Social Security Act for the enforcement of the order."

20 **NEW SECTION. Section 5. Effective date.** [This act] is
 21 effective on passage and approval.

-End-

SENATE BILL NO. 150

INTRODUCED BY BARTLETT

BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING WITH FEDERAL LAW THE STATE CHILD SUPPORT ENFORCEMENT LAWS RELATING TO CHILD SUPPORT GUIDELINES AND PATERNITY BLOOD TESTING FEES; AMENDING SECTIONS 40-4-204, 40-5-210, 40-5-226, AND 40-6-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 40-4-204, MCA, is amended to read:

"40-4-204. Child support -- orders to address health insurance -- withholding of child support. (1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court shall order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for his the child's support, without regard to marital misconduct.

(2) The court shall consider all relevant factors, including:

- (a) the financial resources of the child;
- (b) the financial resources of the custodial parent;
- (c) the standard of living the child would have enjoyed

had the marriage not been dissolved;

(d) the physical and emotional condition of the child and his the child's educational and medical needs;

(e) the financial resources and needs of the noncustodial parent;

(f) the age of the child;

(g) the cost of day care for the child;

(h) any custody arrangement that is ordered or decided upon; and

(i) the needs of any person, other than the child, whom either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order concerning child support, the court shall determine the child support obligation by applying the standards in this section and the uniform child support guidelines adopted by the department of social and rehabilitation services pursuant to 40-5-209. The guidelines must be used in all cases, including cases in which the order is entered upon the default of a party and those in which the parties have entered into an agreement regarding the support amount. A verified representation of the defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable

1 support award, unless the court finds by clear and
 2 convincing evidence that the application of the standards
 3 and guidelines is unjust to the child or to any of the
 4 parties or is inappropriate in that particular case.

5 (b) If the court ~~does--not--apply--these--standards--and~~
 6 ~~guidelines--to--determine--child--support~~ finds that the
 7 guideline amount is unjust or inappropriate in a particular
 8 case, it shall state its reasons for finding that the
 9 application of such the standards and guidelines is unjust
 10 to the child or a party or is inappropriate in that
 11 particular case. Similar reasons must also be stated in a
 12 case in which the parties have agreed to a support amount
 13 that varies from the guideline amount. Findings that rebut
 14 and vary the guideline amount must include a statement of
 15 the amount of support that would have ordinarily been
 16 ordered under the guidelines.

17 (c) If the court does not order a parent owing a duty
 18 of support to a child to pay any amount for the child's
 19 support, the court shall state its reasons for not ordering
 20 child support.

21 (4) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 title and each modification of a final order for child
 24 support must include a provision addressing health insurance
 25 coverage in the following cases:

1 (a) If either party has available through an employer
 2 or other organization health insurance coverage for the
 3 child or children for which the premium is partially or
 4 entirely paid by the employer or organization, the judgment,
 5 decree, or order may contain a provision requiring that
 6 coverage for the child or children be continued or obtained.

7 (b) In the event that health insurance required in a
 8 child support judgment, decree, or order becomes unavailable
 9 to the party who is to provide it, through loss or change of
 10 employment or otherwise, that party must, in the absence of
 11 an agreement to the contrary, obtain comparable insurance or
 12 request that the court modify the requirement.

13 (c) All temporary child support orders must contain a
 14 provision requiring the party who has health insurance in
 15 effect for the child or children of the parties to continue
 16 the insurance coverage pending final disposition of the
 17 case.

18 (d) The parties may by written agreement provide for
 19 the health care coverage required by this section, subject
 20 to the approval of the court.

21 (e) Unless otherwise provided in the decree, the health
 22 care coverage required by this section is in addition to and
 23 not in substitution, in whole or in part, for the child
 24 support obligation.

25 (5) (a) Unless the court makes a written exception

1 under 40-5-315 or 40-5-411 and the exception is included in
 2 the support order, a support obligation established by
 3 judgment, decree, or order under this section, whether
 4 temporary or final, and each modification of an existing
 5 support obligation under 40-4-208 must be enforced by
 6 immediate or delinquency income withholding, or both, under
 7 Title 40, chapter 5, part 3 or 4. A support order that omits
 8 the written exceptions provided in 40-5-315 or 40-5-411 or
 9 that provides for a payment arrangement inconsistent with
 10 this section is nevertheless subject to withholding for the
 11 payment of support without need for an amendment to the
 12 support order or for any further action by the court.

13 (b) If an obligor is exempt from immediate income
 14 withholding, the district court judgment or order must
 15 include a warning statement that if the obligor is
 16 delinquent in the payment of support, the obligor's income
 17 may be subject to income withholding procedures under Title
 18 40, chapter 5, part 3 or 4. Failure to include a warning
 19 statement in a judgment or order does not preclude the use
 20 of withholding procedures.

21 (6) For the purposes of income withholding under
 22 subsection (5), every district court judgment, decree, or
 23 order that establishes or modifies a child support
 24 obligation must include a provision requiring the parent
 25 obligated to pay support to inform the court and, if the

1 department of social and rehabilitation services is
 2 providing services under Title IV-D of the Social Security
 3 Act for the enforcement of the judgment, decree, or order,
 4 the department, of the following:

5 (a) the name and address of the parent's current
 6 employer;

7 (b) whether the parent has access to health insurance
 8 through an employer or other group; and

9 (c) if insurance coverage is available, the health
 10 insurance policy information.

11 (7) If the department of social and rehabilitation
 12 services is providing or later provides support enforcement
 13 services under Title IV-D of the Social Security Act, each
 14 district court order or modification of an order must
 15 contain a statement providing that the noncustodial parent,
 16 without further order of the court, is required to obtain
 17 and maintain health insurance coverage as provided in
 18 40-5-208. Failure to include a warning statement in the
 19 judgment or order does not preclude the imposition of
 20 sanctions under 40-5-208.

21 (8) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 part and each modification of a final order for child
 24 support must contain a statement that the order is subject
 25 to review and modification by the department of social and

rehabilitation services upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order."

Section 2. Section 40-5-210, MCA, is amended to read:

"40-5-210. Standardized fee schedule. (1) The department shall by rule establish a standardized schedule of fees for the recovery of administrative costs and expenses of child support enforcement. The fees may be recovered from an obligor if the obligor's failure or refusal to support a child makes it necessary for the department to provide child support enforcement services under this part. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(2) If paternity is established OR PRESUMED UNDER 40-5-234 for the alleged father, the fees for paternity blood testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed the actual costs of the paternity blood tests.

(3) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department

must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order in which the department is the prevailing party.

(4) Fees awarded under this section are in the nature of child support and are collectible in the same manner as a support order. The fee award may be collected separately or added to and collected with any balance due on a support debt.

(5) Collection of a fee award may not reduce any current child support payment due the obligee.

(6) Arrearage amounts collected that include a fee must be allocated as follows:

(a) If the obligee is a recipient of public assistance, the amount must be allocated first to satisfy the fee.

(b) If the obligee is not a recipient of public assistance, the first 10% of each amount collected must be allocated to satisfy the fee.

(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section."

Section 3. Section 40-5-226, MCA, is amended to read:

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) At the discretion of the hearing officer, the

1 administrative hearing may be held:

2 (a) in the county of residence or other county
3 convenient to the obligor or obligee; or

4 (b) in the county in which the department or any of its
5 offices are located.

6 (3) If a hearing is requested, it must be scheduled
7 within 20 days.

8 (4) The hearing officer shall determine the liability
9 and responsibility, if any, of the obligor under the notice
10 and shall enter a final decision and order in accordance
11 with such the determination.

12 (5) If the obligor fails to appear at the hearing or
13 fails to timely request a hearing, the hearing officer, upon
14 a showing of valid service, shall enter a decision and order
15 declaring the amount stated in the notice to be final.

16 (6) In a hearing to determine financial responsibility,
17 whether temporary or final, and in any proceeding to modify
18 support under 40-5-273, the monthly support responsibility
19 must be determined in accordance with the evidence presented
20 and with reference to the scale--of--suggested--minimum
21 contributions uniform child support guidelines adopted by
22 the department under 40-5-214 40-5-209. The hearing officer
23 is not limited to the amounts stated in the notice. The
24 guidelines must be used in all cases, including cases in
25 which the order is entered upon the default of a party and

1 those in which the order entered upon the parties' consent.
2 A verified representation of a defaulting parent's income,
3 based on the best information available, may be used when a
4 parent fails to provide financial information for use in
5 applying the guidelines. The amount determined under the
6 guidelines is presumed to be an adequate and reasonable
7 support award, unless the hearing officer finds by clear and
8 convincing evidence that the application of the standards
9 and guidelines is unjust to the child or to any of the
10 parties or is inappropriate in a particular case. If the
11 hearing officer finds that the guideline amount is unjust or
12 inappropriate in a particular case, the hearing officer
13 shall state the reasons for finding that the application of
14 the standards and guidelines is unjust to the child or a
15 party or is inappropriate in that particular case. Similar
16 findings must also be made in a case in which the parties
17 have agreed to a support amount that varies from the
18 guideline amount. Findings that rebut and vary the guideline
19 amount must include a statement of the amount of support
20 that would have ordinarily been ordered under the
21 guidelines.

22 (7) Within 20 days of the hearing, the hearing officer
23 shall enter a final decision and order. The determination of
24 the hearing officer constitutes a final agency decision,
25 subject to judicial review under 40-5-253 and the provisions

of the Montana Administrative Procedure Act.

(8) A support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under IV-D for the enforcement of the order.

(9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearing officer.

(10) A support debt or a support responsibility determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearing officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure.

(11) Unless the hearing officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, every order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for

a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearing officer.

(12) For the purposes of income withholding provided for in subsection (11), whenever the department establishes or modifies a child support obligation, the department's order must include a provision requiring the obligor, for as long as the department is providing support enforcement services, to keep the department informed of the name and address of the obligor's current employer, whether the obligor has access to health insurance through an employer or other group, and, if so, the health insurance policy information."

Section 4. Section 40-6-116, MCA, is amended to read:

"40-6-116. Judgment or order. (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a substitute birth certificate be issued under 40-6-123.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the custody and guardianship of the

1 child, visitation privileges with the child, the furnishing
2 of bond or other security for the payment of the judgment,
3 or any other matter in the best interest of the child.

4 (b) Except when the financial responsibility of a
5 responsible parent is in the process of being determined
6 pursuant to the administrative procedure provided in
7 40-5-225, the judgment or order must contain a provision
8 concerning the duty of child support.

9 (c) The judgment or order may direct the father to pay
10 the reasonable expenses of the mother's pregnancy and
11 confinement.

12 (4) (a) Support judgments or orders ordinarily ~~shall~~
13 must be for periodic payments, which may vary in amount.

14 (b) In the best interest of the child, a lump-sum
15 payment or the purchase of an annuity may be ordered in lieu
16 of periodic payments of support.

17 (c) The court may limit the father's liability for past
18 support of the child to the proportion of the expenses
19 already incurred that the court ~~deems~~ considers just.

20 (5) In determining the amount to be paid by a parent
21 for support of the child and the period during which the
22 duty of support is owed, a court enforcing the obligation of
23 support shall consider all relevant facts, including:

24 (a) the needs of the child, including his medical
25 needs;

1 (b) the standard of living and circumstances of the
2 parents;

3 (c) the relative financial means of the parents;

4 (d) the earning ability of the parents;

5 (e) the need and capacity of the child for education,
6 including higher education;

7 (f) the age of the child;

8 (g) the financial resources and the earning ability of
9 the child;

10 (h) the responsibility of the parents for the support
11 of others;

12 (i) the value of services contributed by the custodial
13 parent;

14 (j) the cost of day care for the child; and

15 (k) any custody arrangement that is ordered or decided
16 upon.

17 (6) (a) Whenever a court issues or modifies an order
18 concerning child support, the court shall determine the
19 child support obligation by applying the standards in this
20 section and the uniform child support guidelines adopted by
21 the department of social and rehabilitation services
22 pursuant to 40-5-209. The guidelines must be used in all
23 cases, including cases in which the order is entered upon
24 the default of a party and those in which the parties have
25 entered into an agreement regarding the support amount. A

verified representation of a defaulting parent's income, based on the best information available, may be used when a parent fails to provide financial information for use in applying the guidelines. The amount determined under the guidelines is presumed to be an adequate and reasonable support award, unless the court finds by clear and convincing evidence that the application of the standards and guidelines is unjust to the child or to any of the parties or is inappropriate in that particular case.

(b) If the court does--not--apply--these--standards--and--guidelines--to--determine--child--support finds that the guideline amount is unjust or inappropriate in a particular case, it shall state its reasons for finding that the application of such the standards and guidelines is unjust to the child or a party or is inappropriate in that particular case. Similar reasons must also be stated in a case in which the parties have agreed to a support amount that varies from the guideline amount. Findings that rebut and vary the guideline amount must include a statement of the amount of support that would have ordinarily been ordered under the guidelines.

(c) If the court does not order a parent owing a duty of support to a child to pay any amount for the child's support, the court shall state its reasons for not ordering child support.

(7) The judgment or order concerning child support and each modification of a judgment or order for child support must include a provision addressing health insurance coverage in the following cases:

(a) If either party has available through an employer or other organization health insurance coverage for the child or children for which the premium is partially or entirely paid by the employer or organization, the judgment or order may contain a provision requiring that coverage for the child or children be continued or obtained.

(b) In the event that health insurance required in a child support judgment or order becomes unavailable to the party who is to provide it, through loss or change of employment or otherwise, that party shall, in the absence of an agreement to the contrary, obtain comparable insurance or request that the court modify the requirement.

(c) The parties may by written agreement provide for the health care coverage required by this section, subject to the approval of the court.

(d) Unless otherwise provided in the decree, the health care coverage required by this section is in addition to and not in substitution, in whole or in part, for the child support obligation.

(8) Unless an exception is found under 40-5-315 or 40-5-411 and the exception is included in the support order,

1 a support obligation established by judgment, decree, or
 2 order under this section, whether temporary or final, and
 3 each modification of an existing support obligation made
 4 under 40-6-118 must be enforced by immediate or delinquency
 5 income withholding, or both, under Title 40, chapter 5, part
 6 3 or 4. A support order that omits the exception or that
 7 provides for a payment arrangement inconsistent with this
 8 section is nevertheless subject to withholding for the
 9 payment of support without need for an amendment to the
 10 support order or for any further action by the court.

11 (9) For the purposes of income withholding as provided
 12 in subsection (8), whenever the district court establishes
 13 or modifies a child support obligation, the judgment,
 14 decree, or order must include a provision requiring the
 15 parent obligated to pay support to inform the court and, if
 16 the department of social and rehabilitation services is
 17 providing services under Title IV-D of the Social Security
 18 Act for the enforcement of the judgment, decree, or order,
 19 the department, of the following:

20 (a) the name and address of the parent's current
 21 employer;

22 (b) whether the parent has access to health insurance
 23 through an employer or other group; and

24 (c) if insurance coverage is available, the health
 25 insurance policy information.

1 (10) If the department of social and rehabilitation
 2 services is providing or later provides support enforcement
 3 services under Title IV-D of the Social Security Act, each
 4 district court order or modification of an order must
 5 contain a statement providing that the noncustodial parent,
 6 without further order of the court, is required to obtain
 7 and maintain health insurance coverage as provided in
 8 40-5-208. Failure to include a warning statement in the
 9 judgment or order does not preclude the imposition of
 10 sanctions under 40-5-208.

11 (11) Each district court judgment, decree, or order
 12 establishing a final child support obligation under this
 13 part and each modification of a final order for child
 14 support must contain a statement that the order is subject
 15 to review and modification by the department of social and
 16 rehabilitation services upon the request of the department
 17 or a party under 40-5-271 through 40-5-273 when the
 18 department is providing services under Title IV-D of the
 19 Social Security Act for the enforcement of the order."

20 **NEW SECTION. Section 5. Effective date.** [This act] is
 21 effective on passage and approval.

-End-

HOUSE STANDING COMMITTEE REPORT

March 11, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 150 (third reading copy -- blue) be concurred in as
amended .

Signed: Russell C. Fagg
Russ Fagg, ~~Chair~~

And, that such amendments read:

Carried by: Rep. Russell

1. Page 10, line 1.
Following: "order"
Insert: "is"

-END-

SB 150

Committee Vote:
Yes 16, No 2.

HOUSE

SENATE BILL NO. 150

INTRODUCED BY BARTLETT

BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT CONFORMING WITH FEDERAL
LAW THE STATE CHILD SUPPORT ENFORCEMENT LAWS RELATING TO
CHILD SUPPORT GUIDELINES AND PATERNITY BLOOD TESTING FEES;
AMENDING SECTIONS 40-4-204, 40-5-210, 40-5-226, AND
40-6-116, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 40-4-204, MCA, is amended to read:

"40-4-204. Child support -- orders to address health
insurance -- withholding of child support. (1) In a
proceeding for dissolution of marriage, legal separation,
maintenance, or child support, the court shall order either
or both parents owing a duty of support to a child to pay an
amount reasonable or necessary for his the child's support,
without regard to marital misconduct.

(2) The court shall consider all relevant factors,
including:

- (a) the financial resources of the child;
- (b) the financial resources of the custodial parent;
- (c) the standard of living the child would have enjoyed

had the marriage not been dissolved;

(d) the physical and emotional condition of the child
and his the child's educational and medical needs;

(e) the financial resources and needs of the
noncustodial parent;

(f) the age of the child;

(g) the cost of day care for the child;

(h) any custody arrangement that is ordered or decided
upon; and

(i) the needs of any person, other than the child, whom
either parent is legally obligated to support.

(3) (a) Whenever a court issues or modifies an order
concerning child support, the court shall determine the
child support obligation by applying the standards in this
section and the uniform child support guidelines adopted by
the department of social and rehabilitation services
pursuant to 40-5-209. The guidelines must be used in all
cases, including cases in which the order is entered upon
the default of a party and those in which the parties have
entered into an agreement regarding the support amount. A
verified representation of the defaulting parent's income,
based on the best information available, may be used when a
parent fails to provide financial information for use in
applying the guidelines. The amount determined under the
guidelines is presumed to be an adequate and reasonable

1 support award, unless the court finds by clear and
 2 convincing evidence that the application of the standards
 3 and guidelines is unjust to the child or to any of the
 4 parties or is inappropriate in that particular case.

5 (b) If the court ~~does--not-apply-these-standards-and~~
 6 ~~guidelines--to--determine--child--support~~ finds that the
 7 guideline amount is unjust or inappropriate in a particular
 8 case, it shall state its reasons for finding that the
 9 application of ~~such~~ the standards and guidelines is unjust
 10 to the child or a party or is inappropriate in that
 11 particular case. Similar reasons must also be stated in a
 12 case in which the parties have agreed to a support amount
 13 that varies from the guideline amount. Findings that rebut
 14 and vary the guideline amount must include a statement of
 15 the amount of support that would have ordinarily been
 16 ordered under the guidelines.

17 (c) If the court does not order a parent owing a duty
 18 of support to a child to pay any amount for the child's
 19 support, the court shall state its reasons for not ordering
 20 child support.

21 (4) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 title and each modification of a final order for child
 24 support must include a provision addressing health insurance
 25 coverage in the following cases:

1 (a) If either party has available through an employer
 2 or other organization health insurance coverage for the
 3 child or children for which the premium is partially or
 4 entirely paid by the employer or organization, the judgment,
 5 decree, or order may contain a provision requiring that
 6 coverage for the child or children be continued or obtained.

7 (b) In the event that health insurance required in a
 8 child support judgment, decree, or order becomes unavailable
 9 to the party who is to provide it, through loss or change of
 10 employment or otherwise, that party must, in the absence of
 11 an agreement to the contrary, obtain comparable insurance or
 12 request that the court modify the requirement.

13 (c) All temporary child support orders must contain a
 14 provision requiring the party who has health insurance in
 15 effect for the child or children of the parties to continue
 16 the insurance coverage pending final disposition of the
 17 case.

18 (d) The parties may by written agreement provide for
 19 the health care coverage required by this section, subject
 20 to the approval of the court.

21 (e) Unless otherwise provided in the decree, the health
 22 care coverage required by this section is in addition to and
 23 not in substitution, in whole or in part, for the child
 24 support obligation.

25 (5) (a) Unless the court makes a written exception

1 under 40-5-315 or 40-5-411 and the exception is included in
 2 the support order, a support obligation established by
 3 judgment, decree, or order under this section, whether
 4 temporary or final, and each modification of an existing
 5 support obligation under 40-4-208 must be enforced by
 6 immediate or delinquency income withholding, or both, under
 7 Title 40, chapter 5, part 3 or 4. A support order that omits
 8 the written exceptions provided in 40-5-315 or 40-5-411 or
 9 that provides for a payment arrangement inconsistent with
 10 this section is nevertheless subject to withholding for the
 11 payment of support without need for an amendment to the
 12 support order or for any further action by the court.

13 (b) If an obligor is exempt from immediate income
 14 withholding, the district court judgment or order must
 15 include a warning statement that if the obligor is
 16 delinquent in the payment of support, the obligor's income
 17 may be subject to income withholding procedures under Title
 18 40, chapter 5, part 3 or 4. Failure to include a warning
 19 statement in a judgment or order does not preclude the use
 20 of withholding procedures.

21 (6) For the purposes of income withholding under
 22 subsection (5), every district court judgment, decree, or
 23 order that establishes or modifies a child support
 24 obligation must include a provision requiring the parent
 25 obligated to pay support to inform the court and, if the

1 department of social and rehabilitation services is
 2 providing services under Title IV-D of the Social Security
 3 Act for the enforcement of the judgment, decree, or order,
 4 the department, of the following:

5 (a) the name and address of the parent's current
 6 employer;

7 (b) whether the parent has access to health insurance
 8 through an employer or other group; and

9 (c) if insurance coverage is available, the health
 10 insurance policy information.

11 (7) If the department of social and rehabilitation
 12 services is providing or later provides support enforcement
 13 services under Title IV-D of the Social Security Act, each
 14 district court order or modification of an order must
 15 contain a statement providing that the noncustodial parent,
 16 without further order of the court, is required to obtain
 17 and maintain health insurance coverage as provided in
 18 40-5-208. Failure to include a warning statement in the
 19 judgment or order does not preclude the imposition of
 20 sanctions under 40-5-208.

21 (8) Each district court judgment, decree, or order
 22 establishing a final child support obligation under this
 23 part and each modification of a final order for child
 24 support must contain a statement that the order is subject
 25 to review and modification by the department of social and

rehabilitation services upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under Title IV-D of the Social Security Act for the enforcement of the order."

Section 2. Section 40-5-210, MCA, is amended to read:

"40-5-210. Standardized fee schedule. (1) The department shall by rule establish a standardized schedule of fees for the recovery of administrative costs and expenses of child support enforcement. The fees may be recovered from an obligor if the obligor's failure or refusal to support a child makes it necessary for the department to provide child support enforcement services under this part. The fees must be commensurate with costs or an average of the expenditures related to specific or routine activities.

(2) If paternity is established OR PRESUMED UNDER 40-5-234 for the alleged father, the fees for paternity blood testing may be recovered from the parent, whether the alleged father or the mother, denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed the actual costs of the paternity blood tests.

(3) In an action to establish paternity or to establish or enforce a child support obligation, whether in district court or by administrative process, the department

must be awarded costs in the amount established in the fee schedule as part of any judgment, decree, or order in which the department is the prevailing party.

(4) Fees awarded under this section are in the nature of child support and are collectible in the same manner as a support order. The fee award may be collected separately or added to and collected with any balance due on a support debt.

(5) Collection of a fee award may not reduce any current child support payment due the obligee.

(6) Arrearage amounts collected that include a fee must be allocated as follows:

(a) If the obligee is a recipient of public assistance, the amount must be allocated first to satisfy the fee.

(b) If the obligee is not a recipient of public assistance, the first 10% of each amount collected must be allocated to satisfy the fee.

(7) The department, upon a showing of necessity, may waive or defer any fee assessed under this section."

Section 3. Section 40-5-226, MCA, is amended to read:

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) At the discretion of the hearing officer, the

1 administrative hearing may be held:

2 (a) in the county of residence or other county
3 convenient to the obligor or obligee; or

4 (b) in the county in which the department or any of its
5 offices are located.

6 (3) If a hearing is requested, it must be scheduled
7 within 20 days.

8 (4) The hearing officer shall determine the liability
9 and responsibility, if any, of the obligor under the notice
10 and shall enter a final decision and order in accordance
11 with such the determination.

12 (5) If the obligor fails to appear at the hearing or
13 fails to timely request a hearing, the hearing officer, upon
14 a showing of valid service, shall enter a decision and order
15 declaring the amount stated in the notice to be final.

16 (6) In a hearing to determine financial responsibility,
17 whether temporary or final, and in any proceeding to modify
18 support under 40-5-273, the monthly support responsibility
19 must be determined in accordance with the evidence presented
20 and with reference to the ~~scale--of--suggested--minimum~~
21 ~~contributions~~ uniform child support guidelines adopted by
22 the department under 40-5-214 40-5-209. The hearing officer
23 is not limited to the amounts stated in the notice. The
24 guidelines must be used in all cases, including cases in
25 which the order is entered upon the default of a party and

1 those in which the order IS entered upon the parties'
2 consent. A verified representation of a defaulting parent's
3 income, based on the best information available, may be used
4 when a parent fails to provide financial information for use
5 in applying the guidelines. The amount determined under the
6 guidelines is presumed to be an adequate and reasonable
7 support award, unless the hearing officer finds by clear and
8 convincing evidence that the application of the standards
9 and guidelines is unjust to the child or to any of the
10 parties or is inappropriate in a particular case. If the
11 hearing officer finds that the guideline amount is unjust or
12 inappropriate in a particular case, the hearing officer
13 shall state the reasons for finding that the application of
14 the standards and guidelines is unjust to the child or a
15 party or is inappropriate in that particular case. Similar
16 findings must also be made in a case in which the parties
17 have agreed to a support amount that varies from the
18 guideline amount. Findings that rebut and vary the guideline
19 amount must include a statement of the amount of support
20 that would have ordinarily been ordered under the
21 guidelines.

22 (7) Within 20 days of the hearing, the hearing officer
23 shall enter a final decision and order. The determination of
24 the hearing officer constitutes a final agency decision,
25 subject to judicial review under 40-5-253 and the provisions

of the Montana Administrative Procedure Act.

(8) A support order entered under this part must contain a statement that the order is subject to review and modification by the department upon the request of the department or a party under 40-5-271 through 40-5-273 when the department is providing services under IV-D for the enforcement of the order.

(9) A support debt determined pursuant to this section is subject to collection action without further necessity of action by the hearing officer.

(10) A support debt or a support responsibility determined under this part by reason of the obligor's failure to request a hearing under this part or failure to appear at a scheduled hearing may be vacated, upon the motion of an obligor, by the hearing officer within the time provided and upon a showing of any of the grounds enumerated in the Montana Rules of Civil Procedure.

(11) Unless the hearing officer makes a written exception under 40-5-315 or 40-5-411 and the exception is included in the support order, every order establishing a child support obligation, whether temporary or final, and each modification of an existing child support order under this part is enforceable by immediate or delinquency income withholding, or both, under Title 40, chapter 5, part 4. A support order that omits that provision or that provides for

a payment arrangement inconsistent with this section is nevertheless subject to withholding for the payment of support without need for an amendment of the support order or for any further action by the hearing officer.

(12) For the purposes of income withholding provided for in subsection (11), whenever the department establishes or modifies a child support obligation, the department's order must include a provision requiring the obligor, for as long as the department is providing support enforcement services, to keep the department informed of the name and address of the obligor's current employer, whether the obligor has access to health insurance through an employer or other group, and, if so, the health insurance policy information."

Section 4. Section 40-6-116, MCA, is amended to read:

"40-6-116. Judgment or order. (1) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a substitute birth certificate be issued under 40-6-123.

(3) (a) The judgment or order may contain any other provision directed against the appropriate party to the proceeding concerning the custody and guardianship of the

1 child, visitation privileges with the child, the furnishing
2 of bond or other security for the payment of the judgment,
3 or any other matter in the best interest of the child.

4 (b) Except when the financial responsibility of a
5 responsible parent is in the process of being determined
6 pursuant to the administrative procedure provided in
7 40-5-225, the judgment or order must contain a provision
8 concerning the duty of child support.

9 (c) The judgment or order may direct the father to pay
10 the reasonable expenses of the mother's pregnancy and
11 confinement.

12 (4) (a) Support judgments or orders ordinarily ~~shall~~
13 must be for periodic payments, which may vary in amount.

14 (b) In the best interest of the child, a lump-sum
15 payment or the purchase of an annuity may be ordered in lieu
16 of periodic payments of support.

17 (c) The court may limit the father's liability for past
18 support of the child to the proportion of the expenses
19 already incurred that the court ~~deems~~ considers just.

20 (5) In determining the amount to be paid by a parent
21 for support of the child and the period during which the
22 duty of support is owed, a court enforcing the obligation of
23 support shall consider all relevant facts, including:

24 (a) the needs of the child, including his medical
25 needs;

1 (b) the standard of living and circumstances of the
2 parents;

3 (c) the relative financial means of the parents;

4 (d) the earning ability of the parents;

5 (e) the need and capacity of the child for education,
6 including higher education;

7 (f) the age of the child;

8 (g) the financial resources and the earning ability of
9 the child;

10 (h) the responsibility of the parents for the support
11 of others;

12 (i) the value of services contributed by the custodial
13 parent;

14 (j) the cost of day care for the child; and

15 (k) any custody arrangement that is ordered or decided
16 upon.

17 (6) (a) Whenever a court issues or modifies an order
18 concerning child support, the court shall determine the
19 child support obligation by applying the standards in this
20 section and the uniform child support guidelines adopted by
21 the department of social and rehabilitation services
22 pursuant to 40-5-209. The guidelines must be used in all
23 cases, including cases in which the order is entered upon
24 the default of a party and those in which the parties have
25 entered into an agreement regarding the support amount. A

verified representation of a defaulting parent's income,
based on the best information available, may be used when a
parent fails to provide financial information for use in
applying the guidelines. The amount determined under the
guidelines is presumed to be an adequate and reasonable
support award, unless the court finds by clear and
convincing evidence that the application of the standards
and guidelines is unjust to the child or to any of the
parties or is inappropriate in that particular case.

~~(b) If the court does--not-apply-these-standards-and~~
~~guidelines--to--determine--child--support~~ finds that the
guideline amount is unjust or inappropriate in a particular
case, it shall state its reasons for finding that the
application of such the standards and guidelines is unjust
to the child or a party or is inappropriate in that
particular case. Similar reasons must also be stated in a
case in which the parties have agreed to a support amount
that varies from the guideline amount. Findings that rebut
and vary the guideline amount must include a statement of
the amount of support that would have ordinarily been
ordered under the guidelines.

(c) If the court does not order a parent owing a duty
of support to a child to pay any amount for the child's
support, the court shall state its reasons for not ordering
child support.

(7) The judgment or order concerning child support and
each modification of a judgment or order for child support
must include a provision addressing health insurance
coverage in the following cases:

(a) If either party has available through an employer
or other organization health insurance coverage for the
child or children for which the premium is partially or
entirely paid by the employer or organization, the judgment
or order may contain a provision requiring that coverage for
the child or children be continued or obtained.

(b) In the event that health insurance required in a
child support judgment or order becomes unavailable to the
party who is to provide it, through loss or change of
employment or otherwise, that party shall, in the absence of
an agreement to the contrary, obtain comparable insurance or
request that the court modify the requirement.

(c) The parties may by written agreement provide for
the health care coverage required by this section, subject
to the approval of the court.

(d) Unless otherwise provided in the decree, the health
care coverage required by this section is in addition to and
not in substitution, in whole or in part, for the child
support obligation.

(8) Unless an exception is found under 40-5-315 or
40-5-411 and the exception is included in the support order,

1 a support obligation established by judgment, decree, or
 2 order under this section, whether temporary or final, and
 3 each modification of an existing support obligation made
 4 under 40-6-118 must be enforced by immediate or delinquency
 5 income withholding, or both, under Title 40, chapter 5, part
 6 3 or 4. A support order that omits the exception or that
 7 provides for a payment arrangement inconsistent with this
 8 section is nevertheless subject to withholding for the
 9 payment of support without need for an amendment to the
 10 support order or for any further action by the court.

11 (9) For the purposes of income withholding as provided
 12 in subsection (8), whenever the district court establishes
 13 or modifies a child support obligation, the judgment,
 14 decree, or order must include a provision requiring the
 15 parent obligated to pay support to inform the court and, if
 16 the department of social and rehabilitation services is
 17 providing services under Title IV-D of the Social Security
 18 Act for the enforcement of the judgment, decree, or order,
 19 the department, of the following:

20 (a) the name and address of the parent's current
 21 employer;

22 (b) whether the parent has access to health insurance
 23 through an employer or other group; and

24 (c) if insurance coverage is available, the health
 25 insurance policy information.

1 (10) If the department of social and rehabilitation
 2 services is providing or later provides support enforcement
 3 services under Title IV-D of the Social Security Act, each
 4 district court order or modification of an order must
 5 contain a statement providing that the noncustodial parent,
 6 without further order of the court, is required to obtain
 7 and maintain health insurance coverage as provided in
 8 40-5-208. Failure to include a warning statement in the
 9 judgment or order does not preclude the imposition of
 10 sanctions under 40-5-208.

11 (11) Each district court judgment, decree, or order
 12 establishing a final child support obligation under this
 13 part and each modification of a final order for child
 14 support must contain a statement that the order is subject
 15 to review and modification by the department of social and
 16 rehabilitation services upon the request of the department
 17 or a party under 40-5-271 through 40-5-273 when the
 18 department is providing services under Title IV-D of the
 19 Social Security Act for the enforcement of the order."

20 NEW SECTION. **Section 5.** Effective date. [This act] is
 21 effective on passage and approval.

-End-