

## 1 HOUSE BILL NO. 55

2 INTRODUCED BY BOHLINGER

3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE CHILD SUPPORT INCOME DEDUCTION  
6 LAWS TO CONFORM TO THE REQUIREMENTS OF 42 U.S.C. 666(A)(8)(B); AMENDING SECTION  
7 40-5-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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11 NEW SECTION. **Section 1. Duties of employers.** (1) An employer who has been served with an  
12 order for deduction under this part shall deduct the amount designated in the order beginning not later than  
13 the first pay period that occurs after 14 days from the service of the order. The employer shall, within 10  
14 working days of the date the obligor is paid, promptly pay the deducted amount as directed by the order.  
15 The employer shall include with the payment a statement indicating the date the amount was deducted  
16 from the obligor's wages or salary.

17 (2) Whenever an employer receives more than one wage deduction order from the same district  
18 court, the employer may combine all amounts deducted into a single payment for that month, with the  
19 portion that is attributable to each obligor separately designated.

20 (3) Whenever there is more than one deduction order against a single obligor the employer shall:

21 (a) honor all wage deduction orders to the extent that the total amount deducted from the obligor's  
22 wages or salary does not exceed the limits set in 40-5-309; and

23 (b) comply with the orders in the sequence in which they were served upon the employer except  
24 for income withholding orders issued by the department of social and rehabilitation services. Under  
25 40-5-423, orders issued by the department have priority over all other orders without regard to the  
26 sequence in which they were served.

27 (4) The employer shall promptly notify the clerk of the district court that issued the deduction order  
28 of the termination of the obligor's employment and provide the obligor's last-known address and the name  
29 and address of the obligor's new employer, if known.

1           **NEW SECTION. Section 2. Obligor rights protected -- penalties.** (1) An employer may not  
2 discharge, discipline, or refuse to hire a person because:

- 3           (a) the person has a child support obligation;  
4           (b) a withholding order has been issued for the person's wages or salary; or  
5           (c) proceedings have been initiated under this part.

6           (2) An employer who violates the provisions of this section may be fined not more than \$500 and  
7 not less than \$150 and may be required to make full restitution to the aggrieved person, including  
8 reinstatement and back pay.

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10           **NEW SECTION. Section 3. Civil liability for failure to comply with wage deduction order.** (1) An  
11 employer who fails to deduct support money from the obligor's wages or salary and remit the money to  
12 the district court when ordered to do so under this part is liable to the obligee of the support order for any  
13 amount up to the accumulated amount the employer should have deducted and remitted.

14           (2) An employer who complies with a deduction order under this part is not liable to the obligor  
15 or to any other person claiming rights derived from the obligor for wrongful deductions.

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17           **Section 4.** Section 40-5-308, MCA, is amended to read:

18           **"40-5-308. Order for deduction from income for child support payments.** (1) If the obligor fails  
19 to respond to notice within 15 days or if the district court determines that the obligor is delinquent in  
20 payment of child support as provided in 40-5-304, the district court shall issue an order to the obligor's  
21 employer ordering a deduction from the obligor's wages or salary for the payment of child support.

22           (2) The order ~~shall~~ must state:

23           (a) the action involved;  
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26           (c) the amount to be deducted from the wages or salary of the obligor each pay period and the  
27 amount, if any, allowed to the employer under ~~subsection (2) of 40-5-309(2)~~ (2) as a fee for handling the  
28 deduction;

29           (d) the length of time the order is to remain in effect, if ascertainable; and

30           (e) the name and address of the clerk of court to whom the deduction is to be ~~made payable and~~

1 ~~where it is to be forwarded~~ paid by the employer."

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3 NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3] are intended to be  
4 codified as an integral part of Title 40, chapter 5, part 3, and the provisions of Title 40, chapter 5, part 3,  
5 apply to [sections 1 through 3].

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7 NEW SECTION. Section 6. Saving clause. [This act] does not affect rights and duties that  
8 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
9 act].

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11 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are  
12 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its  
13 applications, the part remains in effect in all valid applications that are severable from the invalid  
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16 NEW SECTION. Section 8. Effective date. [This act] is effective on passage and approval.

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10           **NEW SECTION. Section 3. Civil liability for failure to comply with wage deduction order.** (1) An  
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17           **Section 4.** Section 40-5-308, MCA, is amended to read:

18           **"40-5-308. Order for deduction from income for child support payments.** (1) If the obligor fails  
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7 **NEW SECTION. Section 6. Saving clause.** [This act] does not affect rights and duties that  
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