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HOUSE BILL NO. 505

INTRODUCED BY Cobb

BY REQUEST OF THE HUMAN SERVICES AND AGING SUBCOMMITTEE OF APPROPRIATIONS

A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING THE COSTS OF ADJUDICATION, DISPOSITION, AND SUPERVISION OF A YOUTH IN THE PERMISSIBLE PARENTAL ASSESSMENTS UNDER CHILD ABUSE AND NEGLECT PROCEEDINGS; AMENDING SECTION 41-3-406, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 41-3-406, MCA, is amended to read:

"41-3-406. Dispositional hearing -- contributions by parents or guardians for youth's care. (1) If a youth is found to be a youth in need of care under 41-3-404, the court may enter its judgment, making any of the following dispositions to protect the welfare of the youth:

(a) permit the youth to remain with the youth's parents or guardian, subject to those conditions and limitations the court may prescribe;

(b) grant an order of limited emancipation to a youth who is 16 years of age or older as provided in 41-3-408;

(c) transfer legal custody to any of the following:

(i) the department;

(ii) a child-placing agency that is willing and able to assume responsibility for the education, care, and maintenance of the youth and that is licensed or otherwise authorized by law to receive and provide care of the youth; or

(iii) a relative or other individual who, after study by a social service agency designated by the court, is found by the court to be qualified to receive and care for the youth;

(d) order any party to the action to do what is necessary to give effect to the final disposition, including undertaking medical and psychological evaluations, treatment, and counseling that does not require an expenditure of money by the department unless the department is notified and a court hearing is set in a timely manner on the proposed expenditure. The department is the payor of last resort after all

1 family, insurance, and other resources have been examined.

2 (e) order further care and treatment as the court considers in the best interest of the youth that
3 does not require an expenditure of money by the department unless the department is notified and a court
4 hearing is set in a timely manner on the proposed expenditure. The department is the payor of last resort
5 after all family, insurance, and other resources have been examined.

6 (2) If the youth is transferred to the custody of the department, the court shall examine the
7 financial ability of the youth's parents or guardians to pay a contribution covering all or part of the costs
8 for the adjudication, disposition, supervision, care, custody, and treatment of the youth, including the costs
9 of necessary medical, dental, and other health care.

10 (3) If the court determines that the youth's parents or guardians are financially able to pay a
11 contribution as provided in subsection (2), the court shall order the youth's parents or guardians to pay ~~an~~
12 the amount attributable to care, custody, and treatment based on the uniform child support guidelines
13 adopted by the department of social and rehabilitation services pursuant to 40-5-209.

14 (4) (a) Except as provided in subsection (4)(b), contributions ordered under this section and each
15 modification of an existing order are enforceable by immediate or delinquency income withholding, or both,
16 under Title 40, chapter 5, part 4. An order for a contribution that is inconsistent with this section is
17 nevertheless subject to withholding for the payment of the contribution without need for an amendment
18 of the support order or for any further action by the court.

19 (b) A court-ordered exception from contributions under this section must be in writing and be
20 included in the order. An exception from the immediate income withholding requirement may be granted
21 if the court finds that there is:

22 (i) good cause not to require immediate income withholding; or

23 (ii) an alternative arrangement between the department and the person who is ordered to pay
24 contributions.

25 (c) A finding of good cause not to require immediate income withholding must, at a minimum, be
26 based upon:

27 (i) a written determination and explanation by the court of the reasons why the implementation of
28 immediate income withholding is not in the best interests of the child; and

29 (ii) proof of timely payment of previously ordered support in cases involving modification of
30 contributions ordered under this section.

1 (d) An alternative arrangement must:

2 (i) provide sufficient security to ensure compliance with the arrangement;

3 (ii) be in writing and be signed by a representative of the department and the person required to
4 make contributions; and

5 (iii) if approved by the court, be entered into the record of the proceeding.

6 (5) Upon a showing of a change in the financial ability of the youth's parents or guardians to pay,
7 the court may modify its order for the payment of contributions required under subsection (3).

8 (6) (a) If the court orders the payment of contributions under this section, the department shall
9 apply to the department of social and rehabilitation services for support enforcement services pursuant to
10 Title IV-D of the Social Security Act.

11 (b) The department of social and rehabilitation services may collect and enforce a contribution order
12 under this section by any means available under law, including the remedies provided for in Title 40,
13 chapter 5, parts 2 and 4."

14

15 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

16

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0505, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act including the costs of adjudication, disposition, and supervision of a youth in the permissible parental assessments under child abuse and neglect proceedings.

ASSUMPTIONS:

Department of Family Services (DFS):

1. No additional staff and no additional expenses will be needed to enforce the order for contributions.
2. There are about 125 youth in out-of-home juvenile corrections placements and 25% of the parents are able to contribute to the costs.
3. The average contribution is \$200 a month for a total of \$72,000 each year of the 1997 biennium (125 x .25 x 200 x 12 = 72,000).
4. The additional revenue will reduce general fund by a like amount.
5. This revenue already is budgeted in the Executive Budget for the juvenile corrections program in the DFS.

Department of Social and Rehabilitation Services:

6. There is no fiscal impact to the Department of SRS.

FISCAL IMPACT:

There is no fiscal impact other than that already included in the Executive Budget.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Counties may be reimbursed for their costs.

David Lewis 2-16-95

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

John Cobb

JOHN COBB, PRIMARY SPONSOR DATE

Fiscal Note for HB0505, as introduced

HB 505