

SB BILL NO. 173

INTRODUCED BY

Handwritten signatures: Anna F. Stewart, Christopher Roy, Sliter, Lynch, Cisneros, Thomas, Carovich, Rick Nordquist, Rebein

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A BUYER FOR VALUE OF A CHILD SUPPORT OBLIGOR'S MOTOR VEHICLE OR OTHER ITEM FOR WHICH A CERTIFICATE OF OWNERSHIP IS ISSUED BY THE DEPARTMENT OF JUSTICE WHO BUYS IN GOOD FAITH AND WITHOUT KNOWLEDGE OF THE SUPPORT LIEN TAKES THE PROPERTY FREE OF THE SUPPORT LIEN; AMENDING SECTION 40-5-248, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 40-5-248, MCA, is amended to read:

"40-5-248. Lien against real and personal property -- effect of lien -- interest -- warrant for distraint. (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as defined in 30-9-107.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until 2 years after the child to whom the support lien is related attains the age of majority, whichever



1 occurs first.

2 (5) The lien applies to all real and personal property owned by the obligor, if it can be located in
3 the state. The lien applies to all real and personal property that the obligor can afterward acquire.

4 (6) The department shall keep a record of support liens asserted under this section in the registry
5 of support orders established by 40-5-271.

6 (7) A support lien is perfected:

7 (a) as to real property, upon filing a notice of support lien with the clerk of the district court in the
8 county or counties in which the real property is or may be located at the time of filing or at any time in the
9 future;

10 (b) as to motor vehicles or other items for which a certificate of ownership is issued by the
11 department of justice, upon filing a notice of support lien with the department of justice in accordance with
12 the provisions of Titles 23 and 61;

13 (c) as to all other personal property, upon filing a notice of support lien in the place required to
14 perfect a security interest under 30-9-401. The county clerk and recorder or the secretary of state, as
15 appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of
16 support lien were a financing statement within the meaning of the Uniform Commercial Code.

17 (8) A buyer for value of an obligor's personal property, ~~other than motor vehicles and other items~~
18 ~~for which a certificate of ownership is issued by the department of justice~~, who buys in good faith and
19 without knowledge of the support lien takes the property free of the support lien.

20 (9) (a) The department may charge interest on the support lien at the rate of 1% per month.

21 (b) Interest accrues at the close of the business day on the last day of each month and is
22 calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end
23 of the day, by the applicable rate of interest.

24 (c) A provision of this section may not be construed to require the department to maintain interest
25 balance due accounts. The department may waive interest if waiver would facilitate the collection of the
26 debt.

27 (d) Interest under this subsection (9) is in addition to and not in substitution for any other interest
28 accrued or accruing under any other provision of law.

29 (10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the
30 department shall take all necessary steps to release the support lien.

1 (b) Upon receiving partial payment of the support lien or if the department determines that a release
2 or partial release of the lien will facilitate the collection of support arrearages, the department may release
3 or partially release the support lien. The department may release the support lien if it determines that the
4 lien is unenforceable.

5 (11) A support lien under this section is in addition to any other lien created by law.

6 (12) A support lien under this section may not be discharged in bankruptcy.

7 (13) Support liens provided for by this section may be enforced or collected through the warrant
8 for distraint provided for by 40-5-247."

9

10 NEW SECTION. **Section 2. Applicability.** [This act] applies to purchases occurring after October
11 1, 1997.

12

-END-

SB BILL NO. 173

INTRODUCED BY *Alvin F. Stoltz* *Chris Leagus Roy*
GRINGE *Sliter* *Lynch* *Clemens* *Thomas* *Carlson* *Bob Nordville*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A BUYER FOR VALUE OF A CHILD SUPPORT
OBLIGOR'S MOTOR VEHICLE OR OTHER ITEM FOR WHICH A CERTIFICATE OF OWNERSHIP IS ISSUED
BY THE DEPARTMENT OF JUSTICE WHO BUYS IN GOOD FAITH AND WITHOUT KNOWLEDGE OF THE
SUPPORT LIEN TAKES THE PROPERTY FREE OF THE SUPPORT LIEN; AMENDING SECTION 40-5-248,
MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 40-5-248, MCA, is amended to read:

"40-5-248. Lien against real and personal property -- effect of lien -- interest -- warrant for
distrain. (1) There is a support lien on the real and personal property of an obligor:

(a) when the department has entered a final decision in a contested case under this chapter that
finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes
a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum
certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as
provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as defined in 30-9-107.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or
until 2 years after the child to whom the support lien is related attains the age of majority, whichever



1 occurs first.

2 (5) The lien applies to all real and personal property owned by the obligor, if it can be located in
3 the state. The lien applies to all real and personal property that the obligor can afterward acquire.

4 (6) The department shall keep a record of support liens asserted under this section in the registry
5 of support orders established by 40-5-271.

6 (7) A support lien is perfected:

7 (a) as to real property, upon filing a notice of support lien with the clerk of the district court in the
8 county or counties in which the real property is or may be located at the time of filing or at any time in the
9 future;

10 (b) as to motor vehicles or other items for which a certificate of ownership is issued by the
11 department of justice, upon filing a notice of support lien with the department of justice in accordance with
12 the provisions of Titles 23 and 61;

13 (c) as to all other personal property, upon filing a notice of support lien in the place required to
14 perfect a security interest under 30-9-401. The county clerk and recorder or the secretary of state, as
15 appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of
16 support lien were a financing statement within the meaning of the Uniform Commercial Code.

17 (8) A buyer for value of an obligor's personal property, ~~other than motor vehicles and other items~~
18 ~~for which a certificate of ownership is issued by the department of justice~~, who buys in good faith and
19 without knowledge of the support lien takes the property free of the support lien.

20 (9) (a) The department may charge interest on the support lien at the rate of 1% per month.

21 (b) Interest accrues at the close of the business day on the last day of each month and is
22 calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end
23 of the day, by the applicable rate of interest.

24 (c) A provision of this section may not be construed to require the department to maintain interest
25 balance due accounts. The department may waive interest if waiver would facilitate the collection of the
26 debt.

27 (d) Interest under this subsection (9) is in addition to and not in substitution for any other interest
28 accrued or accruing under any other provision of law.

29 (10) (a) Upon receiving payment in full of the amount of the lien plus interest and fees, if any, the
30 department shall take all necessary steps to release the support lien.

1 (b) Upon receiving partial payment of the support lien or if the department determines that a release
2 or partial release of the lien will facilitate the collection of support arrearages, the department may release
3 or partially release the support lien. The department may release the support lien if it determines that the
4 lien is unenforceable.

5 (11) A support lien under this section is in addition to any other lien created by law.

6 (12) A support lien under this section may not be discharged in bankruptcy.

7 (13) Support liens provided for by this section may be enforced or collected through the warrant
8 for distraint provided for by 40-5-247."

9

10 **NEW SECTION.** **Section 2. Applicability.** [This act] applies to purchases occurring after October
11 1, 1997.

12

-END-

SB BILL NO. 173

INTRODUCED BY

Gringoe, Sliter, Lujan, Cisneros, Thomas, Carls, Rehbain, Christy, Leagus, Rose

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A BUYER FOR VALUE OF A CHILD SUPPORT OBLIGOR'S MOTOR VEHICLE OR OTHER ITEM FOR WHICH A CERTIFICATE OF OWNERSHIP IS ISSUED BY THE DEPARTMENT OF JUSTICE WHO BUYS IN GOOD FAITH AND WITHOUT KNOWLEDGE OF THE SUPPORT LIEN TAKES THE PROPERTY FREE OF THE SUPPORT LIEN; AMENDING SECTION 40-5-248, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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(a) when the department has entered a final decision in a contested case under this chapter that finds the obligor owes a sum certain debt either to this department or to an obligee, or both; or

(b) upon registration under 40-5-271 of a support order that includes finding that the obligor owes a sum certain amount of delinquent support.

(2) A support lien is for the amount required to satisfy:

(a) the sum certain debt shown in a final decision in a contested case under this chapter or the sum certain support debt included in any support order registered under 40-5-271;

(b) interest claimed under this section; and

(c) any fees that may be due under 40-5-210.

(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

(a) any prior perfected lien or security interest;

(b) a mortgage, the proceeds of which are used by an obligor to purchase real property; or

(c) any perfected purchase money security interest, as defined in 30-9-107.

(4) Support liens remain in effect until the delinquency upon which the lien is based is satisfied or until 2 years after the child to whom the support lien is related attains the age of majority, whichever

1 occurs first.

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3 the state. The lien applies to all real and personal property that the obligor can afterward acquire.

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11 department of justice, upon filing a notice of support lien with the department of justice in accordance with
12 the provisions of Titles 23 and 61;

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6 (12) A support lien under this section may not be discharged in bankruptcy.

7 (13) Support liens provided for by this section may be enforced or collected through the warrant
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10 NEW SECTION. **Section 2. Applicability.** [This act] applies to purchases occurring after October
11 1, 1997.

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-END-

SB BILL NO. 173

INTRODUCED BY *Montana State Representative Christopher Roney*
Gringo = Suter Lynch Cuernare Thomas Carlson Rick Nordville

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A BUYER FOR VALUE OF A CHILD SUPPORT
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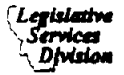
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10 (b) as to motor vehicles or other items for which a certificate of ownership is issued by the
11 department of justice, upon filing a notice of support lien with the department of justice in accordance with
12 the provisions of Titles 23 and 61;

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14 perfect a security interest under 30-9-401. The county clerk and recorder or the secretary of state, as
15 appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of
16 support lien were a financing statement within the meaning of the Uniform Commercial Code.

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10 NEW SECTION. **Section 2. Applicability.** [This act] applies to purchases occurring after October
11 1, 1997.

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-END-

SENATE BILL NO. 173

INTRODUCED BY MCNUTT, DEPRATU, CHRISTIAENS, ROSE, GRINDE, SLITER, LYNCH, CRISMORE,
THOMAS, PAVLOVICH, PECK, MILLS, REHBEIN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A BUYER FOR VALUE OF A CHILD SUPPORT OBLIGOR'S MOTOR VEHICLE OR OTHER ITEM FOR WHICH A CERTIFICATE OF OWNERSHIP IS ISSUED BY THE DEPARTMENT OF JUSTICE WHO BUYS IN GOOD FAITH AND WITHOUT KNOWLEDGE OF THE SUPPORT LIEN TAKES THE PROPERTY FREE OF THE SUPPORT LIEN; AMENDING SECTION 40-5-248, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 40-5-248, MCA, is amended to read:

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(3) A support lien has the priority of a secured creditor from the date the lien is perfected as provided by this section; however, the lien is subordinate to:

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1 until 2 years after the child to whom the support lien is related attains the age of majority, whichever
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12 department of justice, upon filing a notice of support lien with the department of justice in accordance with
13 the provisions of Titles 23 and 61;

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16 appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of
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12 1, 1997.

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1 SENATE BILL NO. 173

2 INTRODUCED BY MCNUTT, DEPRATU, CHRISTIAENS, ROSE, GRINDE, SLITER, LYNCH, CRISMORE,
3 THOMAS, PAVLOVICH, PECK, MILLS, REHBEIN

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A BUYER FOR VALUE OF A CHILD SUPPORT
6 OBLIGOR'S MOTOR VEHICLE OR OTHER ITEM FOR WHICH A CERTIFICATE OF OWNERSHIP IS ISSUED
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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19 a sum certain amount of delinquent support.

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16 appropriate, shall cause the notice of support lien to be marked, held, and indexed as if the notice of
17 support lien were a financing statement within the meaning of the Uniform Commercial Code.

18 (8) A buyer ~~for value of, IN THE ORDINARY COURSE OF BUSINESS, WHO BUYS~~ an obligor's
19 personal property FOR VALUE AND ~~, other than motor vehicles and other items for which a certificate of~~
20 ~~ownership is issued by the department of justice,~~ who buys in good faith and without knowledge of the
21 support lien takes the property free of the support lien.

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23 (b) Interest accrues at the close of the business day on the last day of each month and is
24 calculated by multiplying the unpaid balance of the lien, including prior accrued interest existing at the end
25 of the day, by the applicable rate of interest.

26 (c) A provision of this section may not be construed to require the department to maintain interest
27 balance due accounts. The department may waive interest if waiver would facilitate the collection of the
28 debt.

29 (d) Interest under this subsection (9) is in addition to and not in substitution for any other interest
30 accrued or accruing under any other provision of law.

