

SENATE BILL NO. 172

INTRODUCED BY M. LANG, A. OLSZEWSKI

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING DENIAL OF HUNTING, FISHING, OR TRAPPING LICENSES FOR FAILURE TO PAY CHILD SUPPORT AND OTHER SUPPORT DEBT OR SUPPORT OBLIGATION; AMENDING ~~SECTION~~ SECTIONS 40-5-701, 40-5-704, 40-5-710, AND 40-5-711, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 40-5-701, MCA, is amended to read:

**"40-5-701. Definitions.** As used in this part, the following definitions apply:

(1) (a) "Child" means:

(i) a person under 18 years of age who is not emancipated, self-supporting, married, or a member of the armed forces of the United States;

(ii) a person under 19 years of age who is still in high school;

(iii) a person who is mentally or physically incapacitated when the incapacity began prior to that person reaching 18 years of age; and

(iv) in IV-D cases, a person for whom:

(A) support rights are assigned under 53-2-613;

(B) a public assistance payment has been made;

(C) the department is providing support enforcement services under 40-5-203; or

(D) the department has received a referral for IV-D services under the provisions of the Uniform Interstate Family Support Act, the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Reciprocal Enforcement of Support Act, or Title IV-D of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support extending beyond the time the child reaches 18 years of age.

(2) "CONSERVATION ACTIVITY" MEANS AN ACTIVITY FOR WHICH A WILDLIFE CONSERVATION LICENSE IS ISSUED

BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS PURSUANT TO 87-2-201.



1           ~~(2)~~(3) "Delinquency" means a support debt or support obligation due under a support order in an amount  
2 greater than or equal to 6 months' support payments as of the date of service of a notice of intent to suspend a  
3 license.

4           ~~(3)~~(4) "Department" means the department of public health and human services.

5           ~~(4)~~(5) "License" means a license, certificate, registration, permit, or any other authorization issued by  
6 an agency of the state of Montana granting a person a right or privilege to engage in a business, occupation,  
7 profession, ~~recreational~~ CONSERVATION activity, or any other privilege that is subject to suspension, revocation,  
8 forfeiture, termination, or a declaration of ineligibility to purchase by the licensing authority prior to its date of  
9 expiration.

10          ~~(5)~~(6) "Licensing authority" means any department, division, board, agency, or instrumentality of this  
11 state that issues a license.

12          ~~(6)~~(7) "Obligee" means:

13           (a) a person to whom a support debt or support obligation is owed; or

14           (b) a public agency of this or another state or an Indian tribe that has the right to receive current or  
15 accrued support payments or that is providing support enforcement services under this chapter.

16          ~~(7)~~(8) "Obligor" means a person who owes a duty of support or who is subject to a subpoena or warrant  
17 in a paternity or child support proceeding.

18          ~~(8)~~(9) "Order suspending a license" means an order issued by a support enforcement entity to suspend  
19 a license. The order must contain the name of the obligor, the type of license, and, if known, the social security  
20 number of the obligor.

21          ~~(9)~~(10) "Payment plan" includes but is not limited to a plan approved by the support enforcement entity  
22 that provides sufficient security to ensure compliance with a support order and that incorporates voluntary or  
23 involuntary income withholding under part 3 or 4 of this chapter or a similar plan for periodic payment of a support  
24 debt and, if applicable, current and future support.

25          ~~(10) "Recreational activity" means an activity for which a wildlife conservation license or permit is issued~~  
26 ~~by the department of fish, wildlife, and parks under Title 87, chapter 2, part 6 or 7, except 87-2-708 or 87-2-711,~~  
27 ~~or under 87-2-505, 87-2-507, 87-2-508, or 87-2-510 pursuant to 87-2-201.~~

28          (11) "Subpoena" means a writ or order issued by a court or the department in a proceeding or as part  
29 of an investigation related to the paternity or support of a child that commands a person to appear at a particular  
30 place and time to testify or produce documents or things under the person's control.

- 1 (12) "Support debt" or "support obligation" means the amount created by the failure to provide or pay:  
2 (a) support to a child under the laws of this or any other state or under a support order;  
3 (b) court-ordered spousal maintenance or other court-ordered support for the child's custodial parent;  
4 (c) fines, fees, penalties, interest, and other funds and costs that the support enforcement entity is  
5 authorized to collect by the use of any procedure available to the entity for the payment, enforcement, and  
6 collection of child support or spousal maintenance or support; or  
7 (d) contributions ordered pursuant to 41-5-1525.
- 8 (13) "Support enforcement entity" means:  
9 (a) in IV-D cases, the department; or  
10 (b) in all other cases, the district court that entered the support order or a district court in which the  
11 support order is registered.
- 12 (14) (a) "Support order" means an order that provides a determinable amount for temporary or final  
13 periodic payment of a support debt or support obligation and that may include payment of a determinable or  
14 indeterminable amount for insurance covering the child issued by:  
15 (i) a district court of this state;  
16 (ii) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;  
17 (iii) an administrative agency pursuant to proceedings under Title 40, chapter 5, part 2; or  
18 (iv) an administrative agency of another state or an Indian tribe with a hearing function and process  
19 similar to those of the department.
- 20 (b) If an action for child support is commenced under this part and the context so requires, support order  
21 also includes:  
22 (i) judgments and orders providing periodic payments for the maintenance or support of the child's  
23 custodial parent; and  
24 (ii) amounts for the recovery of fines, fees, penalties, interest, and other funds and costs that the support  
25 enforcement entity is authorized to collect by the use of any procedure available to the entity for the payment,  
26 enforcement, and collection of child support or spousal maintenance or support.
- 27 (15) "Suspension" includes the withdrawal, withholding, revocation, forfeiture, or nonissuance of a license  
28 and license privileges.
- 29 (16) "Warrant" means a bench warrant, a warrant to appear, an order to show cause, or any other order  
30 issued by a court relating to the appearance of a party in a paternity or child support proceeding.

1 (17) "IV-D case" means a case in which the department is providing support enforcement services as  
 2 a result of:

3 (a) an assignment of support rights under 53-2-613;

4 (b) a payment of public assistance;

5 (c) an application for support enforcement services under 40-5-203; or

6 (d) a referral for services from an agency of another state or an Indian tribe under the provisions of the  
 7 Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act,  
 8 the Uniform Interstate Family Support Act, or Title IV-D of the Social Security Act."

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10 **SECTION 2. SECTION 40-5-704, MCA, IS AMENDED TO READ:**

11 **"40-5-704. Suspension, denial, and nonrenewal of licenses.** (1) Upon receipt of the notice of  
 12 suspension of the license under 40-5-703(5), a licensing authority shall implement the suspension of the license  
 13 by:

14 (a) determining if it has issued a license to the obligor whose name appears on the notice;

15 (b) entering the suspension on the appropriate records;

16 (c) reporting the suspension as appropriate;

17 (d) making good faith efforts to deny ~~recreational~~ conservation activity licenses for the next applicable  
 18 license year; and

19 (e) if required by law, demanding surrender of the suspended license.

20 (2) An order issued by a support enforcement entity under 40-5-703 suspending a license and the notice  
 21 of suspension given under 40-5-703(5) must be processed by the licensing authority without an additional review  
 22 or hearing involving the licensing authority concerning suspension of the license.

23 (3) Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial,  
 24 termination, or renewal of a license, an order issued by a support enforcement entity suspending a license must  
 25 be implemented by the licensing authority and continues until the support enforcement entity advises the licensing  
 26 authority that the suspension has been stayed or terminated.

27 (4) In the event that a license is suspended, any funds paid by the obligor to the licensing authority for  
 28 costs related to issuance, renewal, or maintenance of a license may not be refunded to the obligor.

29 (5) Unless an order staying suspension of a license is in effect, an obligor who continues to engage in  
 30 the business, occupation, profession, ~~recreational~~ conservation activity, or other licensed activity while the

1 obligor's license is suspended under this section is guilty of a misdemeanor and upon conviction shall be  
 2 punished by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for a term not  
 3 to exceed 6 months, or both. Upon conviction of a second or subsequent violation, the obligor shall be punished  
 4 by a fine of not less than \$500 or more than \$2,000 or by imprisonment in the county jail for a term not to exceed  
 5 1 year, or both. The support enforcement entity or the licensing authority may elect the remedy under this section  
 6 or any other remedy provided for engaging in a licensed activity without a license or while the license is  
 7 suspended.

8 (6) The licensing authority is exempt from liability to the licensee for activities conducted in compliance  
 9 with this part.

10 (7) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of  
 11 the support enforcement entity suspending a license.

12 (8) To the extent that inconsistencies exist between this part and the procedural requirements for  
 13 suspension of a license issued by the department, this part supersedes those requirements."  
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15 **SECTION 3. SECTION 40-5-710, MCA, IS AMENDED TO READ:**

16 **"40-5-710. Stay of suspension of license -- payment plan -- hardship.** (1) An obligor may at the time  
 17 of the hearing conducted under 40-5-703 or, ~~except for a recreational activity license,~~ at any time after the  
 18 hearing, petition the support enforcement entity for an order staying suspension of the license.

19 (2) The support enforcement entity shall consider the obligor's petition for a stay separately from any  
 20 determination on whether suspension of a license is appropriate.

21 (3) The support enforcement entity may stay suspension of a license upon a showing that suspension  
 22 or continued suspension of a license would create a significant hardship to the obligor, to the obligor's employees,  
 23 to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the  
 24 obligor.

25 (4) A stay terminates upon:

26 (a) termination of the circumstances upon which a hardship is based;

27 (b) failure by the obligor to abide by the terms and conditions of a payment plan; or

28 (c) the date of termination, if any, provided in the order staying suspension of the license.

29 (5) If the licensing authority has been notified of an order suspending a license, the support enforcement  
 30 entity shall notify the licensing authority of any stay or reinstatement unless the support enforcement entity has

1 suspended the license of the obligor for another delinquency or for failure to comply with a subpoena or warrant  
 2 and the suspension for the other delinquency or failure to comply with a subpoena or warrant is still in effect. The  
 3 support enforcement entity shall send a copy of any order staying or reinstating suspension of the license to the  
 4 obligor.

5 (6) (a) Upon receipt of a notice staying or reinstating suspension of the license, the licensing authority  
 6 shall:

7 (i) enter the information on appropriate records;

8 (ii) report the action as appropriate; and

9 (iii) demand surrender of the suspended license or return the reinstated license.

10 (b) Further action by the licensing authority is not necessary to implement the stay or reinstatement of  
 11 suspension of the license."

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13 **SECTION 4. SECTION 40-5-711, MCA, IS AMENDED TO READ:**

14 **"40-5-711. Termination of order to suspend license.** (1) Except as provided in subsection (3), when  
 15 the support enforcement entity determines that the support debt or support obligation is paid in full or the obligor  
 16 has complied with the subpoena or warrant, it shall terminate the order suspending the license. The support  
 17 enforcement entity shall send a copy of the order terminating the suspension of the license to the obligor.

18 (2) Entry of an order terminating suspension of a license does not limit the ability of a support  
 19 enforcement entity to issue a new order suspending the license of the same obligor in the event of another  
 20 delinquency or failure to comply with a subpoena or warrant.

21 (3) A suspension of a ~~recreational~~ conservation activity license is effective for the license year. The  
 22 suspension does not terminate if the support enforcement entity determines that the support debt or support  
 23 obligation is paid in full or the obligor has complied with the subpoena or warrant."

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25 **NEW SECTION. Section 5. Effective date.** [This act] is effective July 1, 2017.

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