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HOUSE BILL 523

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Marsha Atkin

AN ACT

RELATING TO CHILD SUPPORT; PROVIDING FOR ACCOUNTABILITY AND RESPONSIBILITY OF A CUSTODIAL PARENT IN EXPENDING CHILD SUPPORT PAYMENTS RECEIVED FOR THE BENEFIT OF A MINOR CHILD; AMENDING A SECTION OF THE NMSA 1978 AND REPEALING A SECTION OF LAWS 1988.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 40-4-11 NMSA 1978 (being Laws 1971, Chapter 185, Section 1, as amended) is amended to read:

"40-4-11. DETERMINATION OF AWARD OF CHILD SUPPORT-- NOTICE TO WITHHOLD INCOME. --In any proceeding before a court in which the court has the duty or authority to determine liability of a parent for the support of minor children or the amount of that support, the court:

A. shall make a specific determination and finding

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[bracketed material] = delete

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[bracketed material] = delete

1 of the amount of support to be paid by a parent in accordance
2 with the provisions of Section 40-4-11.1 NMSA 1978;

3 B. shall not consider [~~present~~] current or future
4 welfare financial assistance payments to or on behalf of the
5 children in making its determination under Subsection A of
6 this section; [~~and~~]

7 C. for good cause may order the parent liable for
8 support of a minor child to assign to the person or public
9 office entitled to receive the child support that portion of
10 the parent's periodic income or other periodic entitlements to
11 money. The assignment of that portion of the parent's
12 periodic income or other periodic entitlements to money may be
13 ordered by the court by the issuance of a notice to withhold
14 income against the income of the parent. The procedures for
15 the issuance of the notice to withhold income, the content of
16 the notice to withhold income, the duties of the parent liable
17 for child support and the duties of the employer responsible
18 for withholding income shall be the same as provided for in
19 the Support Enforcement Act, except that delinquency in
20 payment under an order for support need not be a preexisting
21 condition to effectuate the procedures of the Support
22 Enforcement Act for purpose of withholding income under this
23 section; and

24 D. shall include in the order of support:

25 (1) a provision establishing the custodial

underscored material = new
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1 parent's responsibility as a fiduciary in receiving child
2 support payments and requiring an accounting to the court by
3 the custodial parent for amounts received as child support
4 payments from the noncustodial parent if the court determines
5 upon motion and hearing that reasonable cause exists to
6 believe there has been a misappropriation of funds; and

7 (2) a requirement that the custodial parent
8 expend child support payments received from the noncustodial
9 parent only on behalf of the minor child and for purposes that
10 are clearly in the best interests of and promote the welfare
11 of the minor child. "

12 Section 2. REPEAL. -- Laws 1988, Chapter 87, Section 3 is
13 repealed.