

FIRST REGULAR SESSION

SENATE BILL NO. 312

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time February 22, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1677S.011

AN ACT

To repeal section 454.475, RSMo, and to enact in lieu thereof one new section relating to child support administrative decisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 454.475, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 454.475, to read as follows:

454.475. 1. Hearings provided for in this section shall be conducted
2 pursuant to chapter 536, **except as otherwise provided in this section**, by
3 administrative hearing officers designated by the Missouri department of social
4 services. The hearing officer shall provide the **family support division, the**
5 parents, the person having custody of the child, or other appropriate agencies or
6 their attorneys with notice of any **administrative** proceeding [in which support
7 obligations may be established or modified] **related to the establishment,**
8 **enforcement, or modification of support obligations.** The [department]
9 **family support division** shall not be stayed from enforcing and collecting upon
10 the administrative order during the hearing process and during any appeal to the
11 courts of this state, unless specifically enjoined by court order.

12 2. If no factual issue has been raised by the application for hearing, or the
13 issues raised have been previously litigated or do not constitute a defense to the
14 action, the director may enter an order without an evidentiary hearing, which
15 order shall be a final decision entitled to judicial review as provided in sections
16 536.100 to 536.140.

17 3. After full and fair hearing, the hearing officer shall make specific
18 findings regarding the liability and responsibility, if any, of the alleged
19 responsible parent for the support of the dependent child, and for repayment of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 accrued state debt or arrearages, and the costs of collection, and shall enter an
21 order consistent therewith. In making the determination of the amount the
22 parent shall contribute toward the future support of a dependent child, the
23 hearing officer shall consider the factors set forth in section 452.340.

24 4. If the person who requests the hearing fails to appear at the time and
25 place set for the hearing, upon a showing of proper notice to that [parent]
26 **person**, the hearing officer shall enter findings and order in accordance with the
27 provisions of the notice and finding of support responsibility unless the hearing
28 officer determines that no good cause [therefor] exists.

29 5. In contested cases, the findings and order of the hearing officer shall
30 be the decision of the director. Any parent or person having custody of the child
31 adversely affected by such decision may obtain judicial review pursuant to
32 sections 536.100 to 536.140 by filing a petition for review in the circuit court of
33 proper venue within thirty days of mailing of the decision. Copies of the decision
34 or order of the hearing officer shall be mailed to any parent, person having
35 custody of the child and the division within fourteen days of issuance.

36 6. If a hearing has been requested, and upon request of a parent, a person
37 having custody of the child, the division or a IV-D agency, the director shall enter
38 a temporary order requiring the provision of child support pending the final
39 decision or order pursuant to this section if there is clear and convincing evidence
40 establishing a presumption of paternity pursuant to section 210.822. In
41 determining the amount of child support, the director shall consider the factors
42 set forth in section 452.340. The temporary order, effective upon filing pursuant
43 to section 454.490, is not subject to a hearing pursuant to this section. The
44 temporary order may be stayed by a court of competent jurisdiction only after a
45 hearing and a finding by the court that the order fails to comply with rule 88.01.

46 **7. (1) At any time after the issuance of an administrative**
47 **decision or order, either by default, consent, or after a hearing, errors**
48 **in the administrative decision or order arising from oversight or**
49 **omission, mistake of law or fact, surprise, fraud, misrepresentation,**
50 **excusable neglect, or inadvertence may be corrected by amendment,**
51 **after notice to the parties, by a hearing officer on his or her own**
52 **initiative or upon the motion of any party or the division.**

53 **(2) After the issuance of an administrative order in an**
54 **administrative proceeding for the establishment or modification of a**
55 **support order, the hearing officer, on his or her own initiative, or upon**

56 the motion of any party or the division, may, after notice to the parties,
57 vacate the administrative order, if it is found that:

58 (a) The administrative order was issued without subject matter
59 jurisdiction; or

60 (b) The administrative order was issued without personal
61 jurisdiction over either party; or

62 (c) The administrative order was issued without affording either
63 party due process and:

64 a. The administrative order has not been filed with and, if
65 applicable in a modification proceeding, approved by the court; and

66 b. No party has filed a petition for judicial review with the court.

67 (3) An administrative order issued pursuant to subdivision (2) of
68 this subsection to vacate a previous administrative order shall be filed
69 with the court where the original administrative order was filed and a
70 copy shall be sent to any parent, a person having custody of the child
71 and the division within fourteen days of issuance.

Bill ✓

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