

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 739

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KEAVENY.

Read 1st time February 2, 2012, and ordered printed.

Read 2nd time February 9, 2012, and referred to the Committee on Health, Mental Health, Seniors and Families.

Reported from the Committee April 12, 2012, with recommendation that the bill do pass.

Taken up for Perfection April 18, 2012. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

4209S.02P

AN ACT

To repeal section 454.475, RSMo, and to enact in lieu thereof one new section relating to administrative child support 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Section A. Section 454.475, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 454.475, to read as follows: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 pursuant to chapter 536 by administrative hearing officers designated by the Missouri department of social services. The hearing officer shall provide the parents, the person having custody of the child, or other appropriate agencies or their attorneys with notice of any proceeding in which support obligations may be established or modified. The department shall not be stayed from enforcing and collecting upon the administrative order during the hearing process and during any appeal to the courts of this state, unless specifically enjoined by court order.

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

3. After full and fair hearing, the hearing officer shall make specific findings regarding the liability and responsibility, if any, of the alleged

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

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

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

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

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

44 **7. After written notice and an opportunity to respond to all**
45 **parties:**

46 **(1) Any administrative decision or order issued under this**
47 **section containing clerical mistakes arising from oversight or omission,**
48 **except proposed administrative modifications of judicial orders, may**
49 **be corrected by an agency administrative hearing officer at any time**
50 **upon their own initiative or written motion filed by the division or any**
51 **party to the action. Proposed administrative modifications of judicial**
52 **orders may be corrected by an agency administrative hearing officer**

53 prior to the filing of the proposed administrative modification of a
54 judicial order with the court that entered the underlying judicial order
55 as required in section 454.496. No correction shall be made during the
56 court's review of the administrative decision, order, or proposed order
57 as authorized under section 536.100 to 536.140;

58 (2) Any administrative decision or order or proposed
59 administrative modification of judicial order issued under this section
60 containing errors arising from mistake, surprise, fraud,
61 misrepresentation, excusable neglect or inadvertence, may be corrected
62 prior to being filed with the court by an agency administrative hearing
63 officer upon their own initiative or by written motion filed by the
64 division or any party to the action. No decision, order, or proposed
65 administrative modification of judicial order may be corrected after
66 ninety days from the mailing of the administrative decision, order, or
67 proposed order or during the court's review of the administrative
68 decision, order, or proposed order as authorized under section 536.100
69 to 536.140;

70 (3) Any administrative decision or order or proposed
71 administrative modification of judicial order, issued under this section
72 may be vacated by an agency administrative hearing officer upon their
73 own initiative or by written motion filed by the division or any party
74 to the action, if the administrative hearing officer determines that the
75 decision or order was issued without subject matter jurisdiction,
76 without personal jurisdiction, or without affording the parties due
77 process. An administrative order or proposed administrative
78 modification of a judicial order may only be vacated prior to being filed
79 with the court. No decision, order, or proposed administrative
80 modification of a judicial order may be vacated after ninety days from
81 the mailing of the administrative decision, order, or proposed
82 administrative modification of a judicial order or during the court's
83 review of the administrative decision, order, or proposed order as
84 authorized under section 536.100 to 536.140.

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