

1 S.101

2 Introduced by Committee on Judiciary

3 Date: March 22, 2011

4 Subject: Domestic relations; annulment and divorce; child support

5 Statement of purpose: This bill proposes to reduce the surcharge on unpaid
6 child support, and provide a mechanism for the court to discharge all or part of
7 a surcharge upon a finding that the obligated parent lacked the ability to
8 comply with the underlying support obligation, if it serves the interest of
9 justice; create a child support enforcement working group that will report
10 recommendations to the general assembly; and expand the eligibility for child
11 support services.

12 An act relating to child support enforcement

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 15 V.S.A. § 606(d) is amended to read:

15 (d)(1) In lieu of interest on unpaid child support which has accrued under a
16 child support order, a child support surcharge shall be imposed on past-due
17 child support. ~~The~~ Beginning July 1, 2004, the surcharge shall be computed
18 and assessed monthly at a rate of one percent or an annual rate of 12 percent
19 and shall not be compounded. Beginning January 1, 2012, the surcharges shall
20 be computed and assessed monthly at a rate of one-half percent or an annual

1 rate of six percent and shall not be compounded. All surcharges shall be
2 deemed principal and not interest. Payments received for child support
3 obligations shall be allocated and distributed as follows:

4 ~~(1)~~(A) first to current support obligations;

5 ~~(2)~~(B) second to arrearages; and

6 ~~(3)~~(C) third to surcharge arrears.

7 (2) In the interest of justice, the court may discharge all or part of a
8 surcharge that accrued subsequent to the date of the last judgment upon a
9 finding that the obligated parent lacked the ability to comply with the
10 underlying support obligation. The obligated parent shall bear the burden of
11 proving inability to comply.

12 Sec. 2. CHILD SUPPORT ENFORCEMENT WORKING GROUP

13 (a) A working group composed of the director of the office of child
14 support, the administrative judge, the commissioner of the department of
15 corrections, the executive director of the department of state's attorneys and
16 sheriffs, the defender general, and a representative of the family law division
17 of the Vermont bar association shall develop recommendations and a
18 legislative proposal regarding:

19 (1) how the state can assist willing obligors to comply with child
20 support orders;

1 (b) All orders for child support subject to wage withholding shall require
2 that payment be made through the registry and shall be deemed IV-D cases.
3 All orders for child support not subject to wage withholding made or modified
4 on or after July 1, 1990 shall require that payment be made through the registry
5 as a IV-D case unless the parties have agreed that the obligor will pay the
6 obligee directly.

7 (c) In the case where neither parent requests services under Title IV-D of
8 the Social Security Act or where the case is not a IV-D case by operation of
9 law, the office of child support services may recover the administrative costs of
10 processing payments through the child support registry, not to exceed an
11 administrative fee of \$5.00 per month. The family division of the superior
12 court shall increase the monthly support obligation to take the administrative
13 cost into account unless the noncustodial parent is below the federal poverty
14 level. The office of child support services shall deduct the cost from the first
15 payment received each month. Fees collected under this subsection shall be
16 credited to a special fund and shall be available to the office of child support
17 services to offset the costs of its administrative services.

18 * * *

19 Sec. 4. EFFECTIVE DATE

20 Sec. 3 of this act shall take effect January 1, 2012, and the remaining
21 sections shall take effect on July 1, 2011.