

AMENDED IN ASSEMBLY MARCH 30, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2440

Introduced by Assembly Member Klehs

February 23, 2006

An act to add Section 1714.4 to the Civil Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 2440, as amended, Klehs. Child support obligations: liability.

Existing law imposes joint and several liability upon a parent or guardian for the injury done to another person by the child of that parent or guardian under certain circumstances.

This bill would impose joint and several liability upon any person ~~who~~ *or business entity that* knowingly assists a ~~noncustodial~~ child support obligor who has an unpaid child support obligation to escape, evade, or avoid current payment of those unpaid child support obligations. The bill would also include a related statement of legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares the
- 2 following:
- 3 (a) In California, there were an estimated \$19 billion in unpaid
- 4 child support obligations as of January 2006.

1 (b) The failure of a ~~nonecustodial~~ parent to pay child support
 2 obligations often subjects the child and the ~~custodial~~ *other* parent
 3 to a life of poverty or substandard living conditions, reduced
 4 access to medical care, and diminished educational opportunities.

5 (c) The failure of a ~~nonecustodial~~ parent to satisfy
 6 court-ordered or court-approved child support obligations
 7 depletes the State of California of one of its most valued
 8 resources: the next generation of healthy and well-educated
 9 Californians.

10 SEC. 2. Section 1714.4 is added to the Civil Code, to read:

11 1714.4. (a) Any person ~~who~~ *or business entity that*
 12 knowingly assists a ~~nonecustodial~~ child support obligor who has
 13 an unpaid child support obligation to escape, evade, or avoid
 14 paying court-ordered or court-approved child support shall be
 15 jointly and severally liable for the ~~amount of the unpaid~~ *entire*
 16 child support *obligation due* at the time the assistance was
 17 provided to the child support obligee. The maximum liability
 18 imposed by this section shall not exceed the ~~value of the~~
 19 ~~assistance provided, such as the fair market value of the assets~~
 20 ~~transferred or hidden, or the amount of the wages or other~~
 21 ~~compensation paid to the child support obligor but not reported~~
 22 *entire child support obligation due*. Upon the satisfaction of the
 23 unpaid child support obligation, this section shall not apply.

24 (b) For purposes of this section, actions taken to knowingly
 25 assist a child support obligor to escape, evade, or avoid paying
 26 court-ordered or court-approved child support include, but are
 27 not limited to, any of the following actions:

28 (1) Helping to hide or transfer assets of the child support
 29 obligor.

30 (2) Hiring or employing the child support obligor as an
 31 employee in a trade or business and failing to timely file a report
 32 of new employees with the California New Employee Registry
 33 maintained by the Employment Development Department.

34 (3) Paying wages or other forms of compensation for services
 35 rendered to a child support obligor in cash, via barter or trade, or
 36 in any other form that is not reported to the Employment
 37 Development Department.

38 ~~(4) Other actions that the Department of Child Support~~
 39 ~~Services determines to assist evasion of an outstanding unpaid~~
 40 ~~child support obligation.~~

1 (c) If a violation of this section is alleged, all of the following
2 shall apply:

3 (1) The matter shall be heard in family law court before a
4 judge or commissioner.

5 (2) If there is an existing child support case addressing the
6 issue of unpaid support, the matter of liability pursuant to this
7 section shall be heard as a part of that existing case. Upon
8 motion and a sufficient showing by a party to the existing action,
9 the court shall join to the action any person who may be liable
10 under this section.

11 (3) The matter of liability pursuant to this section shall be
12 determined in an evidentiary hearing based upon the
13 preponderance of the evidence.