

AMENDED IN SENATE JUNE 26, 2006

AMENDED IN ASSEMBLY MAY 16, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

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~~ *Sections 1714.4 and 1714.41* 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 *having custody and control of a minor* for the injury done to another person by ~~the child of that parent or guardian~~ *minor* under certain circumstances.

This bill would impose joint and several liability upon any person or business entity that knowingly assists a 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 all of
2 the following:

3 (a) In California, there were an estimated \$19 billion in unpaid
4 child support obligations as of January 2006.

5 (b) The failure of a parent to pay child support obligations
6 often subjects the child and the other parent to a life of poverty or
7 substandard living conditions, reduced access to medical care,
8 and diminished educational opportunities.

9 (c) The failure of a parent to satisfy court-ordered or
10 court-approved child support obligations depletes the State of
11 California of one of its most valued resources— the next
12 generation of healthy and well-educated Californians.

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

14 1714.4. (a) Any person or business entity that knowingly
15 assists a child support obligor who has an unpaid child support
16 obligation to escape, evade, or avoid paying court-ordered or
17 court-approved child support shall be jointly and severally liable
18 for 10 times the value of the assistance provided, such as the fair
19 market value of the assets transferred or hidden, or the amount of
20 the wages or other compensation paid to the child support obligor
21 but not reported. The maximum liability imposed by this section
22 shall not exceed the entire child support obligation due. Upon the
23 satisfaction of the unpaid child support obligation, this section
24 shall not apply.

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

29 ~~(1) With actual knowledge of the child support obligation,~~
30 ~~helping to hide or transfer assets of the child support obligor.~~

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

35 ~~(3) Engaging the child support obligor as a service provider~~
36 ~~and failing to timely file a report with the Employment~~
37 ~~Development Department as required by Section 1088.8 of the~~
38 ~~Unemployment Insurance Code.~~

1 ~~(4) When engaged in a trade or business paying wages or other~~
2 ~~forms of compensation for services~~
3 ~~rendered by a child support obligor that are not reported to the~~
4 ~~Employment Development Department as required, including,~~
5 ~~but not limited to, payment in cash or via barter or trade, with~~
6 ~~actual knowledge of the child support obligation, helping to hide~~
7 ~~or transfer assets of the child support obligor.~~

8 *(c) This section shall not apply to a financial institution unless*
9 *the financial institution has actual knowledge of the child support*
10 *obligation and, with that knowledge, knowingly assists the*
11 *obligor to escape, evade, or avoid paying the child support*
12 *obligation. However, a financial institution with knowledge of an*
13 *asset transfer has no duty to inquire into the rightfulness of the*
14 *transaction, nor shall it be deemed to have knowingly assisted an*
15 *obligor to escape, evade, or avoid paying the child support*
16 *obligation if that assistance is provided by an employee or agent*
17 *of the financial institution acting outside the terms and*
18 *conditions of employment or agency without the actual*
19 *knowledge of the financial institution.*

20 *SEC. 3. Section 1714.41 is added to the Civil Code, to read:*

21 *1714.41. (a) Any person or business entity that knowingly*
22 *assists a child support obligor who has an unpaid child support*
23 *obligation to escape, evade, or avoid paying court-ordered or*
24 *court-approved child support shall be jointly and severally liable*
25 *for 10 times the value of the assistance provided, such as the fair*
26 *market value of the assets transferred or hidden, or the amount*
27 *of the wages or other compensation paid to the child support*
28 *obligor but not reported. The maximum liability imposed by this*
29 *section shall not exceed the entire child support obligation due.*
30 *Upon the satisfaction of the unpaid child support obligation, this*
31 *section shall not apply.*

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

36 *(1) Hiring or employing the child support obligor as an*
37 *employee in a trade or business and failing to timely file a report*
38 *of new employees with the California New Employee Registry*
39 *maintained by the Employment Development Department.*

1 (2) *Engaging the child support obligor as a service provider*
2 *and failing to timely file a report with the Employment*
3 *Development Department as required by Section 1088.8 of the*
4 *Unemployment Insurance Code.*

5 (3) *When engaged in a trade or business paying wages or*
6 *other forms of compensation for services rendered by a child*
7 *support obligor that are not reported to the Employment*
8 *Development Department as required, including, but not limited*
9 *to, payment in cash or via barter or trade.*