

AMENDED IN SENATE AUGUST 8, 2006

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 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 that 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~~ *three* times the value of the assistance provided, such as
19 the fair market value of the assets transferred or hidden, or the
20 amount of the wages or other compensation paid to the child
21 support obligor but not reported. The maximum liability imposed
22 by this section shall not exceed the entire child support obligation
23 due. *Any funds collected pursuant to this section shall be paid to*
24 *the child support obligee, and shall not reduce the amount of the*
25 *unpaid child support obligation.* Upon the satisfaction of the
26 unpaid child support obligation, this section shall not apply.

27 (b) For purposes of this section, actions taken to knowingly
28 assist a child support obligor to escape, evade, or avoid paying
29 court-ordered or court-approved child support include, with
30 actual knowledge of the child support obligation, helping to hide
31 or transfer assets of the child support obligor.

32 (c) This section shall not apply to a financial institution unless
33 the financial institution has actual knowledge of the child support
34 obligation and, with that knowledge, knowingly assists the
35 obligor to escape, evade, or avoid paying the child support
36 obligation. However, a financial institution with knowledge of an
37 asset transfer has no duty to inquire into the rightfulness of the
38 transaction, nor shall it be deemed to have knowingly assisted an

1 obligor to escape, evade, or avoid paying the child support
2 obligation if that assistance is provided by an employee or agent
3 of the financial institution acting outside the terms and conditions
4 of employment or agency without the actual knowledge of the
5 financial institution.

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

7 1714.41. (a) Any person or business entity that knowingly
8 assists a child support obligor who has an unpaid child support
9 obligation to escape, evade, or avoid paying court-ordered or
10 court-approved child support shall be ~~jointly and severally~~ liable
11 for ~~10~~ *three* times the value of the assistance provided, such as
12 the fair market value of the assets transferred or hidden, or the
13 amount of the wages or other compensation paid to the child
14 support obligor but not reported. The maximum liability imposed
15 by this section shall not exceed the entire child support obligation
16 due. *Any funds collected pursuant to this section shall be paid to*
17 *the child support obligee, and shall not reduce the amount of the*
18 *unpaid child support obligation.* Upon the satisfaction of the
19 unpaid child support obligation, this section shall not apply.

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

24 (1) ~~Hiring~~—*With actual knowledge of the child support*
25 *obligation, hiring or employing the child support obligor as an*
26 *employee in a trade or business and failing to timely file a report*
27 *of new employees with the California New Employee Registry*
28 *maintained by the Employment Development Department.*

29 (2) ~~Engaging~~—*With actual knowledge of the child support*
30 *obligation, engaging the child support obligor as a service*
31 *provider and failing to timely file a report with the Employment*
32 *Development Department as required by Section 1088.8 of the*
33 *Unemployment Insurance Code.*

34 (3) ~~When~~—*With actual knowledge of the child support*
35 *obligation, when engaged in a trade or business, paying wages or*
36 *other forms of compensation for services rendered by a child*
37 *support obligor that are not reported to the Employment*

- 1 Development Department as required, including, but not limited
- 2 to, payment in cash or via barter or trade.

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