

Assembly Bill No. 2440

Passed the Assembly August 24, 2006

Chief Clerk of the Assembly

Passed the Senate August 22, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 1714.4 and 1714.41 to the Civil Code, relating to child support.

LEGISLATIVE COUNSEL'S DIGEST

AB 2440, 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 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.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

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

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

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

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

1714.4. (a) Any person or business entity that knowingly assists a child support obligor who has an unpaid child support obligation to escape, evade, or avoid paying court-ordered or court-approved child support shall be liable for three times the value of the assistance provided, such as the fair market value of

the obligor's assets transferred or hidden. The maximum liability imposed by this section shall not exceed the entire child support obligation due. Any funds or assets collected pursuant to this section shall be paid to the child support obligee, and shall not reduce the amount of the unpaid child support obligation. Upon the satisfaction of the unpaid child support obligation, this section shall not apply.

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

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

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

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

(b) For purposes of this section, actions taken to knowingly assist a child support obligor to escape, evade, or avoid paying

court-ordered or court-approved child support include, but are not limited to, any of the following actions taken when the individual or entity knew or should have known of the child support obligation:

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

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

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

Approved _____, 2006

Governor