

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 194

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO CHILD SUPPORT; AMENDING SECTION 7-610, IDAHO CODE, TO PROVIDE
2 THAT THE DEPARTMENT OF HEALTH AND WELFARE SHALL FILE A CONTEMPT AFFI-
3 DAVIT WITH THE COURT THAT ISSUED A CHILD SUPPORT ORDER UNDER CERTAIN
4 CIRCUMSTANCES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
5 7-1202, IDAHO CODE, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS;
6 AND AMENDING CHAPTER 12, TITLE 7, IDAHO CODE, BY THE ADDITION OF A NEW
7 SECTION 7-1204, IDAHO CODE, TO PROVIDE THAT AN OBLIGOR IN CONTEMPT OF
8 A CHILD SUPPORT ORDER MAY NOT PETITION TO MODIFY CHILD CUSTODY UNDER
9 CERTAIN CIRCUMSTANCES AND TO PROVIDE A PROBATION PROGRAM FOR DELINQUENT
10 OBLIGORS.
11

12 Be It Enacted by the Legislature of the State of Idaho:

13 SECTION 1. That Section 7-610, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 7-610. JUDGMENT -- PENALTY -- AFFIDAVIT OF CHILD SUPPORT DELIN-
16 QUENCY. (1) Upon the answer and evidence taken, the court or judge must
17 determine whether the person proceeded against is guilty of the contempt
18 charged, and if it be adjudged that he is guilty of the contempt, a fine may
19 be imposed on him not exceeding five thousand dollars (\$5,000), or he may be
20 imprisoned not exceeding five (5) days, or both; provided that a person who
21 is guilty of contempt for neglecting to attend or serve as a juror when sum-
22 moned to do so, or for failing to appear as a prospective juror when summoned
23 by the jury commission under section 2-208(4), Idaho Code, shall be fined in
24 an amount not exceeding five hundred dollars (\$500), or may be imprisoned not
25 exceeding five (5) days, or both; and except that if the contempt of which
26 the defendant be adjudged guilty be a disobedience of a judgment or order for
27 the support of minor children, he may be imprisoned not exceeding thirty (30)
28 days in addition to such fine, under this section, as the court may impose.
29 Additionally, the court, in its discretion, may award attorney's fees and
30 costs to the prevailing party.

31 (2) When there is a delinquency under a child support order for which
32 the department of health and welfare is or has been providing child support
33 enforcement services, when such delinquency is equal to or greater than five
34 thousand dollars (\$5,000), and when the department possesses evidence that
35 the person in delinquency has the ability to make child support payments as
36 ordered, the department must file with the court that issued the child sup-
37 port order an affidavit pursuant to section 7-603, Idaho Code, in order to
38 initiate contempt proceedings against the person in delinquency. Prior to
39 filing an affidavit, the department may demand that a person in delinquency
40 provide to the department, within fifteen (15) days of such demand, evidence
41 of a material change in circumstances sufficient to demonstrate that the
42 person is not able to make child support payments as ordered.

1 SECTION 2. That Section 7-1202, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 7-1202. DEFINITIONS. As used in this chapter:

4 (1) "Child support" means a legally enforceable obligation assessed
5 against an individual for the support of a child, which shall include medical
6 care, including health insurance premiums for the child, and any amount ow-
7 ing under an order for support during a period in which public assistance was
8 expended.

9 (2) "Current support" means the amount owing for the present month pur-
10 suant to a child support order, excluding any delinquency.

11 (3) "Delinquency" means unpaid support for a minor child or spouse
12 which that has accrued under an order.

13 (34) "Department" means the department of health and welfare.

14 (45) "Obligee" means any person, state agency or bureau entitled by or-
15 der to receive child support payments or child and spousal support payments.

16 (56) "Obligor" means any person obligated by order to pay child or
17 spousal support.

18 (67) "Order" means a judgment, decree, order, or administrative ruling
19 directing a person or persons to pay money for support of a minor child or a
20 spouse.

21 (78) "Income" means any form of payment to an individual, regardless of
22 source, including, but not limited to, wages, salary, commission, compensa-
23 tion as an independent contractor, worker's compensation, disability, vet-
24 eran's annuity and retirement benefits, and any other payments made by any
25 person, private entity, federal or state government, any unit of local gov-
26 ernment, school district or any entity created by a public act.

27 SECTION 3. That Chapter 12, Title 7, Idaho Code, be, and the same is
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
29 ignated as Section 7-1204, Idaho Code, and to read as follows:

30 7-1204. CONTEMPT OF CHILD SUPPORT ORDER -- EFFECT ON PETITION TO MOD-
31 IFY CHILD CUSTODY. (1) If an obligor is found guilty of contempt of a child
32 support order pursuant to chapter 6, title 7, Idaho Code, and the obligor's
33 delinquency under such order is at least ten thousand dollars (\$10,000),
34 then the obligor may not file or be heard on a petition for modification of a
35 child custody order concerning the child or children whose support is delin-
36 quent until the obligor has:

37 (a) Reduced the delinquency to less than ten thousand dollars
38 (\$10,000);

39 (b) Satisfied obligations under the support order for the last twelve
40 (12) months; and

41 (c) Participated in and successfully completed a twelve (12) month pe-
42 riod of probation as described in subsection (2) of this section.

43 (2) The department is required to establish a probation program for
44 obligors with delinquencies. Under such program, an obligor must:

45 (a) Meet, on at least a monthly basis, with a department employee as-
46 signed to oversee the obligor's probation; and

47 (b) Submit a monthly budget to such employee, which budget must include
48 amounts apportioned to:

- 1 (i) Satisfy the obligor's current support under the child support
- 2 order; and
- 3 (ii) Reduce the obligor's delinquency.