

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 69
97TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Pensions, February 12, 2013, with recommendation that the Senate Committee Substitute do pass.

0222S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 454.475, RSMo, and to enact in lieu thereof one new section relating to administrative child support decisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 454.475, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 454.475, to read as follows:

454.475. 1. Hearings provided for in this section shall be conducted
2 pursuant to chapter 536 by administrative hearing officers designated by the
3 Missouri department of social services. The hearing officer shall provide the
4 parents, the person having custody of the child, or other appropriate agencies or
5 their attorneys with notice of any proceeding in which support obligations may
6 be established or modified. The department shall not be stayed from enforcing
7 and collecting upon the administrative order during the hearing process and
8 during any appeal to the courts of this state, unless specifically enjoined by court
9 order.

10 2. If no factual issue has been raised by the application for hearing, or the
11 issues raised have been previously litigated or do not constitute a defense to the
12 action, the director may enter an order without an evidentiary hearing, which
13 order shall be a final decision entitled to judicial review as provided in sections
14 536.100 to 536.140.

15 3. After full and fair hearing, the hearing officer shall make specific
16 findings regarding the liability and responsibility, if any, of the alleged
17 responsible parent for the support of the dependent child, and for repayment of
18 accrued state debt or arrearages, and the costs of collection, and shall enter an

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 order consistent therewith. In making the determination of the amount the
20 parent shall contribute toward the future support of a dependent child, the
21 hearing officer shall consider the factors set forth in section 452.340.

22 4. If the person who requests the hearing fails to appear at the time and
23 place set for the hearing, upon a showing of proper notice to that [parent]
24 **person**, the hearing officer shall enter findings and order in accordance with the
25 provisions of the notice [and finding of support responsibility] **or motion** unless
26 the hearing officer determines that no good cause therefor exists.

27 5. In contested cases, the findings and order of the hearing officer shall
28 be the decision of the director. Any parent or person having custody of the child
29 adversely affected by such decision may obtain judicial review pursuant to
30 sections 536.100 to 536.140 by filing a petition for review in the circuit court of
31 proper venue within thirty days of mailing of the decision. Copies of the decision
32 or order of the hearing officer shall be mailed to any parent, person having
33 custody of the child and the division within fourteen days of issuance.

34 6. If a hearing has been requested, and upon request of a parent, a person
35 having custody of the child, the division or a IV-D agency, the director shall enter
36 a temporary order requiring the provision of child support pending the final
37 decision or order pursuant to this section if there is clear and convincing evidence
38 establishing a presumption of paternity pursuant to section 210.822. In
39 determining the amount of child support, the director shall consider the factors
40 set forth in section 452.340. The temporary order, effective upon filing pursuant
41 to section 454.490, is not subject to a hearing pursuant to this section. The
42 temporary order may be stayed by a court of competent jurisdiction only after a
43 hearing and a finding by the court that the order fails to comply with rule 88.01.

44 **7. (1) Any administrative decision or order issued under this**
45 **section containing clerical mistakes arising from oversight or omission,**
46 **except proposed administrative modifications of judicial orders, may**
47 **be corrected by an agency administrative hearing officer at any time**
48 **upon their own initiative or written motion filed by the division or any**
49 **party to the action provided the written motion is mailed to all**
50 **parties. Any objection or response to the written motion shall be made**
51 **in writing and filed with the hearing officer within fifteen days from**
52 **the mailing date of the motion. Proposed administrative modifications**
53 **of judicial orders may be corrected by an agency administrative**
54 **hearing officer prior to the filing of the proposed administrative**

55 modification of a judicial order with the court that entered the
56 underlying judicial order as required in section 454.496, or upon
57 express order of the court that entered the underlying judicial order.
58 No correction shall be made during the court's review of the
59 administrative decision, order, or proposed order as authorized under
60 sections 536.100 to 536.140, except in response to an express order from
61 the reviewing court.

62 (2) Any administrative decision or order or proposed
63 administrative modification of judicial order issued under this section
64 containing errors arising from mistake, surprise, fraud,
65 misrepresentation, excusable neglect or inadvertence, may be corrected
66 prior to being filed with the court by an agency administrative hearing
67 officer upon their own initiative or by written motion filed by the
68 division or any party to the action provided the written motion is
69 mailed to all parties and filed within sixty days of the administrative
70 decision, order, or proposed decision and order. Any objection or
71 response to the written motion shall be made in writing and filed with
72 the hearing officer within fifteen days from the mailing date of the
73 motion. No decision, order, or proposed administrative modification of
74 judicial order may be corrected after ninety days from the mailing of
75 the administrative decision, order, or proposed order or during the
76 court's review of the administrative decision, order, or proposed order
77 as authorized under sections 536.100 to 536.140, except in response to
78 an express order from the reviewing court.

79 (3) Any administrative decision or order or proposed
80 administrative modification of judicial order, issued under this section
81 may be vacated by an agency administrative hearing officer upon their
82 own initiative or by written motion filed by the division or any party
83 to the action provided the written motion is mailed to all parties, if the
84 administrative hearing officer determines that the decision or order
85 was issued without subject matter jurisdiction, without personal
86 jurisdiction, or without affording the parties due process. Any
87 objection or response to the written motion shall be made in writing
88 and filed with the hearing officer within fifteen days from the mailing
89 date of the motion. A proposed administrative modification of a
90 judicial order may only be vacated prior to being filed with the court
91 decision, order, or proposed administrative modification of a judicial

92 **order may be vacated during the court's review of the administrative**
93 **decision, order, or proposed order as authorized under sections 536.100**
94 **to 536.140, except in response to an express order from the reviewing**
95 **court.**

✓

Unofficial

Bill

Copy