



THE MISSOURI BAR

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DATE: February 3, 2009
TO: Representative Bryan Stevenson
FROM: The Missouri Bar
RE: House Bill 183

Recently, The Missouri Bar Executive Committee met to review legislation. The Executive Committee consists of the officers of the bar and three additional members annually elected by the Board of Governors. The members of this year's committee are Thomas M. Burke, President; H.A. "Skip" Walther, President-Elect; John S. Johnston, Vice-President; Charlie J. Harris, Jr., Immediate Past-President; Carol Chazen Friedman; Patrick B. Starke; and Deanna K. Scott. The committee has authority to act on behalf of the Board of Governors during the legislative session. In reviewing legislation, the Executive Committee considers comments received from various Missouri Bar legislative review subcommittees. All positions taken by the Executive Committee are communicated to the full Board as soon as possible after they are taken.

After reviewing House Bill 183 and the comments received, the Executive Committee voted to find the bill within the legislative scope of The Missouri Bar and to support the concept of enforcing child support payments.

A concern was raised in the Executive Committee that the bill eliminates judicial discretion. The following additional comments from bar members who reviewed this legislation are provided for your consideration:

"Although case law would theoretically allow for a limitation on the courts' action if a party is held in contempt, it is not specifically stated. Therefore, I would suggest that language in Section 452.357 add the following qualification: 'Upon finding an obligor in contempt of court under this section, the court may immediately order one or more of the following until the contemnor purges himself of contempt:' Similar language in Section 452.358 does not apply to orders other than orders of commitment." Jeremiah Kidwell

"The current law on contempt makes it easier to convict someone for criminal non-support than to commit them to custody for civil contempt. This provision will move people out of the criminal justice system alleviating burdens on probation officers and public defenders and avoiding the stigma of a criminal conviction." Terrence Messonnier

"It is unclear to me why a second provision punishing those who fail to pay child support with jail time is necessary. I can foresee a double jeopardy challenge by one who is convicted under our current criminal statute and this one." (name undisclosed)

Thank you for considering this input from The Missouri Bar.