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HOUSE BILL 345

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Bengie Regensberg

AN ACT

RELATING TO DOMESTIC AFFAIRS; PROVIDING FOR A COURT PROCEEDING
TO ENFORCE A CUSTODY, TIME-SHARING OR VISITATION ORDER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 40-4-9.2 NMSA 1978 is enacted to
read:

"40-4-9.2. [NEW MATERIAL] ENFORCEMENT OF CUSTODY, TIME-
SHARING OR VISITATION ORDER. --

A. A court order concerning custody, time-sharing
or visitation arrangements may be enforced by a motion filed
with the court by either party pursuant to the provisions of
this section.

B. The court shall provide such forms as are
necessary for a party to file a motion for an order to show
cause for a violation of a custody, time-sharing or visitation

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1 order. A motion, seeking an order of contempt, shall be
2 verified or have an affidavit attached setting forth the
3 relevant order governing the conduct of the parties and the
4 alleged specific act that violated the order. The court, upon
5 reviewing the motion, may issue an order to show cause why the
6 answering party should not be held in contempt at a hearing to
7 be held as expeditiously as possible after the filing of the
8 motion. The order shall be personally served upon the
9 answering party.

10 C. If a court finds that a party has violated a
11 custody, time-sharing or visitation order, the court may find
12 the party in contempt and may issue such further orders as are
13 in the best interest of the child, including, among other
14 remedies:

15 (1) imposing additional terms and conditions
16 consistent with the court's previous order;

17 (2) modifying the prior order to meet the best
18 interests of the child;

19 (3) requiring the violator to post bond or
20 security to ensure further compliance;

21 (4) requiring that makeup visitation or time-
22 sharing be provided the aggrieved party or child within one
23 year after the noncompliance but consistent with the type and
24 duration that is in the best interests of the child;

25 (5) imposing a fine or jail sentence on the

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1 violator;

2 (6) scheduling a hearing for modification of
3 custody or time-sharing to consider all relevant information;

4 (7) awarding the actual expenses, including
5 reasonable attorney fees and costs incurred by an aggrieved
6 party because of the violation;

7 (8) providing a plan for overseeing and
8 supervising the custody, time-sharing or visitation plan by a
9 court-approved volunteer, guardian ad litem, court clinic
10 professional or other qualified person; or

11 (9) pursuant to Subsection D of this section,
12 modifying child support payments if:

13 (a) the violator has repeatedly and
14 without just cause violated the custody, time-sharing or
15 visitation order; and

16 (b) other remedies are unlikely to
17 compel compliance with the custody, time-sharing or visitation
18 order.

19 D. An order modifying child support payments shall
20 provide that:

21 (1) existing payments shall continue for a
22 three-month period but shall be placed into a trust account;

23 (2) at the end of the three-month period, the
24 payments shall be released to the obligee if the court finds
25 that, during the three-month period, the obligee has abided by

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the custody, time-sharing or visitation order; and

(3) if the court finds that the contempt of the obligee has continued during the three-month period, the obligee shall forfeit the right to the payments, the payments shall be returned to the obligor and future payments shall again be subject to the provisions of this subsection.

E. The remedies provided in this section are in addition to other procedural and statutory remedies provided by law. "