

LEGISLATIVE BILL 7

Approved by the Governor November 15, 1985

Introduced by Speaker, Nichol, 48, for the Governor

AN ACT relating to children; to amend sections 42-347, 42-348, 42-358, 42-358.02, 42-358.05 to 42-358.08, 42-364.13, 42-371, 42-821, 43-512 to 43-512.03, 43-512.05 to 43-512.08, 43-512.10, 43-1406, and 43-1411, Reissue Revised Statutes of Nebraska, 1943, section 77-27,161, Revised Statutes Supplement, 1984, and sections 42-364, 43-2,113, and 48-647, Revised Statutes Supplement, 1985; to state intent; to provide for the use of child support referees in certain counties as prescribed; to provide powers and duties for various courts, agencies, and officials; to create funds; to define and redefine terms; to change provisions relating to the establishment, collection, and enforcement of support for children; to change provisions relating to liens; to adopt the Income Withholding for Child Support Act; to change fee provisions; to extend the time for filing a paternity action; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds that matters relating to visitation, paternity, and the support of children, whether directly in the form of child support, indirectly in the form of support for a spouse or former spouse, or otherwise, should be handled by the courts in an expeditious manner so that parties may obtain needed orders and other actions as quickly as possible. The Supreme Court shall by rule determine whether child support referees are necessary in counties with a population of more than sixty thousand inhabitants to meet requirements relating to case progression standards established by Public Law 98-378. If the Supreme Court determines that a child support referee is necessary in such a county, the district court in such county shall appoint no more than one attorney in good standing to serve as a referee subject to confirmation by the Supreme Court. The child support referee may be removed by either the district court or Supreme Court. In the remaining counties of the state no child support referees shall be appointed unless (1) a showing of the inability of the existing judicial resources to accommodate the case progression

standards established by Public Law 98-378 is made and (2) specific statutory authorization is granted by the Legislature.

In any county, the Supreme Court may appoint without approval of the Legislature, county judges to act as child support referees. The Supreme Court may by rule prioritize classes of cases in order to assure that matters relating to child support and spousal support, paternity, and visitation shall meet the case progression standards established by Public Law 98-378.

Sec. 2. The clerk of the district court of each county shall report to the Supreme Court on a monthly basis such information as requested by the Supreme Court in the manner requested and within such time as required by the Supreme Court regarding the progression of expedited actions filed or pending in the district court of which he or she is the clerk. An automated reporting system shall be developed by the Supreme Court with the advice of the clerks of the district court. It is the intent of the Legislature that such automated system make use of the existing automated system presently used by the clerks of the district court, and the development of an automated system by the Supreme Court be coordinated with the automated system being developed by the Department of Social Services and the clerks of the district court.

Sec. 3. No person shall be eligible for the office of child support referee unless he or she is currently admitted to practice before the Nebraska Supreme Court. Offices, support staff, equipment, furnishings, and supplies shall be provided for in the budget of the clerk of the district court for the judicial district or districts in which the child support referee serves. Salaries and expenses of child support referees shall be paid by funds appropriated to the Supreme Court but in no case shall such salary exceed seventy per cent of the salary of a judge of the county court. The child support referee shall determine any matter pertaining to (1) the establishment, modification, enforcement, and collection of child support, (2) the enforcement and collection of spousal support if such support is part of an order which provides for child support and the child and spouse are living in the same household, and (3) visitation. A child support referee may order the issuance of process to compel the attendance of parties and witnesses, administer all necessary oaths, supervise pretrial preparation pursuant to the rules of discovery promulgated by the Supreme Court pursuant to section 25-1273.01, grant adjournments, and exercise related powers in the same manner as a county or district court judge. Testimony in matters pertaining to child support or spousal support, when included in an order for child support, and visitation modification shall be preserved by tape recording or other means prescribed by the Supreme Court. Standards for such preservation shall

be those prescribed by the Supreme Court.

When a review is requested as provided in section 6 of this act, the court shall order the transcription of such testimony. The transcript shall constitute the bill of exceptions in the case and shall be filed with the clerk of the district court. The cost of preparing the transcript shall be paid by the party for whom it is prepared.

Sec. 4. A trial before a child support referee shall be conducted in the same manner as a trial in the district court. A child support referee shall have authority to use all legal and equitable powers available to a district court judge, except that a child support referee shall not have authority to set bail and order detention in lieu of bail.

In any judicial district where a child support referee is appointed who is not a county or district court judge, if incarceration is recommended for civil or criminal contempt of court, the child support referee shall refer the matter, together with a written recommendation, to the district court judge for final disposition.

Sec. 5. A child support referee shall announce his or her decision orally or in writing to the parties or their attorneys, if any, and, in the case of a hearing pertaining to a child, to the child or his or her custodian, adult friend, or attorney. The child support referee shall transmit the written decision or a copy to the clerk of the district court together with all papers and records relating to the case.

Sec. 6. (1) A child support referee's decision may be reviewed by the district court. The party seeking review shall petition in writing for review within fifteen days from the date the child support referee's decision is announced. The petition shall set forth specifically the errors of law or fact alleged to have been committed by the child support referee. The review hearing shall be on the record made before the child support referee, supplemented in such fashion as the court may permit.

(2) If the petition for review does not set forth the errors committed by the child support referee or is otherwise insufficient, it may be dismissed without a hearing or further review, and the decision of the child support referee shall become the judgment of the district court immediately upon entry of the order of dismissal, with the right of appeal reserved to all parties.

(3) The filing of a petition for review shall not stay the decision of the child support referee unless specifically ordered by the district court.

(4) If no petition for review is filed within the fifteen-day period, the decision of the child support referee shall become the judgment of the district court, with the right of appeal reserved to all parties. If no

appeal is taken, the judgment shall be entered upon the judgment record of the district court in the manner provided in section 25-2210.

Sec. 7. There is hereby created the Supreme Court Child and Spousal Support Fund. Such fund shall be used by the Supreme Court to pay for child and spousal support collection efforts. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 8. That section 42-347, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-347. As used in sections 42-347 to 42-379 and section 18 of this act, unless the context otherwise requires:

(1) Authorized attorney shall mean an attorney (a) employed by the county subject to the approval of the county board, (b) until July 1, 1986, employed by the Department of Social Services, (c) on or after July 1, 1986, employed or appointed by the Attorney General's office, or (d) appointed by the court, who is authorized to investigate and prosecute child and spousal support cases;

(2) Dissolution of marriage shall mean the termination of a marriage by decree of a court of competent jurisdiction upon a finding that the marriage is irretrievably broken. After July 6, 1972, the term dissolution of marriage shall be considered synonymous with divorce, and whenever the term divorce appears in the statutes it shall mean dissolution of marriage pursuant to sections 42-347 to 42-379; and

~~(2)~~ (3) Legal separation shall mean a decree of a court of competent jurisdiction providing that two persons who have been legally married shall thereafter live separate and apart and providing for any necessary adjustment of property, support, and custody rights between the parties, but not dissolving the marriage; and

(4) Spousal support, when used in the context of income withholding or any provisions of law which might lead to income withholding, shall mean alimony or maintenance support for a spouse or former spouse when ordered as a part of an order, decree, or judgment which provides for child support and the child and spouse or former spouse are living in the same household.

Sec. 9. That section 42-348, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-348. All proceedings under sections 42-347 to 42-379 shall be brought in the district court of the county in which one of the parties resides. Proceedings may be transferred to a separate juvenile court or county court sitting as a juvenile court which has acquired jurisdiction pursuant to section 43-2,113. Certified copies of orders filed with the clerk of the district court pursuant to such section shall be treated in the same

manner as similar orders issued by the district court.

Sec. 10. That section 42-358, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358. (1) The court may appoint an attorney to protect the interests of any minor children of the parties. Such attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify on matters pertinent to the welfare of the children. Following entry of any decree, the court having jurisdiction over the minor children of the parties may at any time appoint an attorney, as friend of the court, to initiate contempt proceedings for failure of any party to comply with an order of the court directing such party to pay temporary or permanent child support. The county attorney or authorized attorney his deputy may be appointed by the court for the purposes provided in this section.

(2) The clerks of the district courts shall maintain delinquency records in each case docketed in which child support is fixed by order of the court. Each month the clerk shall certify all cases in which the court-ordered child support is more than thirty days in arrears or spousal support is delinquent in an amount equal to the support due and payable for a one-month period of time to the judge presiding over domestic relations cases and to the county attorney or authorized attorney. A rebuttable presumption of contempt shall be established if a prima facie showing is made that the court-ordered child or spousal support is in arrears for more than thirty days delinquent. In each case certified, income withholding shall be implemented pursuant to the Income Withholding for Child Support Act. If income withholding is not feasible and if no other action is pending for the collection of delinquent support payments, the court shall appoint an attorney to commence contempt of court proceedings. If the county attorney or authorized attorney consents, he or she the county attorney or such county attorney's deputy may be appointed for such purpose. The contempt proceeding shall be instituted within ten days following appointment and the case shall be diligently prosecuted to completion. The court shall by order fix the fee, including disbursements, for such attorney, county attorney, or his or her deputy, which amount shall be taxed as costs and paid by the parties as ordered. Any fees allowed for the services of any county attorney or authorized attorney deputy county attorney shall be paid to the county treasurer who shall deposit such fees to the credit of the county general fund Department of Social Services when there is an assignment of support to the department pursuant to subsection (1) of section 43-512.02 or when an application for child support services is on file with a county attorney or authorized attorney. If the court finds the party responsible an

indigent, the court may order the county to pay the costs.

(3) If, at the hearing, the person owing child or spousal support is called for examination as an adverse party and such person refuses to answer upon the ground that his or her testimony may be incriminating, the court may, upon the motion of the county attorney or authorized attorney, require the person to answer and produce the evidence. In such a case the evidence produced shall not be admissible in any criminal case against such person nor shall any evidence obtained because of the knowledge gained by such evidence be so admissible.

(4) The court shall have authority to order access to all revenue information, maintained by the Department of Revenue or other agencies, concerning the income of persons liable or who pursuant to this section and sections 42-358.08 and 42-821 may be found liable to pay child or spousal support payments.

(5) Any person aggrieved by a determination of the court may appeal such decision to the Nebraska Supreme Court.

Sec. 11. That section 42-358.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358.02. (1) All delinquent permanent child support payments shall draw interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature. Such interest shall be computed as simple interest.

(2) All child support payments shall become delinquent the day after they are due and owing. Interest shall not accrue until thirty days after such payments are delinquent.

(3) The court shall order the determination of the amount of interest due, and such interest shall be payable in the same manner as the support payments upon which the interest accrues subject to subsection (2) of this section or unless it is waived by agreement of the parties. It shall be the duty of the clerk of the district court to compute interest and identify delinquencies pursuant to this section and to report such information to the court and to the county attorney or authorized attorney.

Sec. 12. That section 42-358.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358.05. The After a hearing on the issue, the court may order immediate implementation of income withholding pursuant to the Income Withholding for Child Support Act or require the posting of a bond at the time that a temporary or permanent child support or spousal support decree is issued to insure performance of the decree.

Sec. 13. That section 42-358.06, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358.06. A lien upon the property of one who is delinquent in permanent child or spousal support payments may be instituted and enforced according to the terms of section 42-371.

Sec. 14. That section 42-358.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358.07. Any clerk of the district court who fails to perform his or her duties under the provisions of ~~sections 42-358 or sections 42-358.01 to 42-358.07~~ or the Income Withholding for Child Support Act and 42-371 shall be removed from office after conviction for such offense.

Sec. 15. That section 42-358.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-358.08. Notwithstanding any other provision of law regarding the confidentiality of records and, when not prohibited by the federal Privacy Act of 1974, Public Law 93-579, 93rd Congress as amended, each department and agency of state, county, and city government shall, upon request, furnish to any assist and cooperate with court-appointed individuals, the county attorney, any authorized attorney, or the Department of Social Services or such county attorney's deputy, pursuant to sections 42-358 to 42-358.07, in determining an absent parent's address, Social Security number, amount of income, and employer's name and address identifying an absent parent's employer, for the exclusive purpose of collecting child or spousal support. Information so obtained shall be used for no other purpose.

Sec. 16. That section 42-364, Revised Statutes Supplement, 1985, be amended to read as follows:

42-364. When dissolution of a marriage or legal separation is decreed, the court may include such orders in relation to any minor children and their maintenance as shall be justified, including placing the minor children in the custody of the court or third parties or terminating parental rights pursuant to subdivision (5) of this section if the welfare of the children so requires. Custody and visitation of minor children shall be determined on the basis of their best interests. Subsequent changes may be made by the court after hearing on such notice as prescribed by the court.

(1) In determining with which of the parents the children or any of them shall remain, the court shall consider the best interests of the children, which shall include, but not be limited to:

(a) The relationship of the children to each parent prior to the commencement of the action or any subsequent hearing;

(b) The desires and wishes of the children if of an age of comprehension regardless of their chronological age, when such desires and wishes are based on sound reasoning; and

(c) The general health, welfare, and social behavior of the children.

(2) In determining with which of the parents the children or any of them shall remain, the court shall not give preference to either parent based on the sex of the parent, and no presumption shall exist that either parent is more fit to have custody of the children than the other.

(3) The court may place the custody of a child with both parents on a shared or joint-custody basis when both parents agree to such an arrangement. In that event, the parents shall have equal rights to make decisions in the best interests of the child in their custody. The court shall not place a child in joint custody without conducting a hearing in open court and specifically finding that joint custody is in the best interest of the child regardless of any parental agreement or consent.

(4) In determining the amount of child support to be paid by a parent, the court shall consider the earning capacity of each parent and the guidelines provided by the Supreme Court pursuant to section 18 of this act for the establishment of child support obligations. Upon application, hearing, and presentation of evidence of an abusive disregard of the use of child support money paid by one party to the other, the court may require the party receiving such payment to file a verified report with the court as often as the court shall require stating the manner in which such money is used. Child support paid to the party having custody of the child shall be the property of such party. The clerk of the district, county, or separate juvenile court shall maintain a record, separate from all other judgment dockets, of all decrees and orders in which the payment of child support or spousal support has been ordered, whether ordered by a district court, separate juvenile court, or county court sitting as a juvenile court.

(5) Whenever termination of parental rights is placed in issue by the pleadings or evidence, the court shall transfer jurisdiction to a juvenile court established pursuant to the Nebraska Juvenile Code unless a showing is made that the district court is a more appropriate forum. In making such determination, the court may consider such factors as cost to the parties, undue delay, congestion of dockets, and relative resources available for investigative and supervisory assistance. A determination that the district court is a more appropriate forum shall not be a final order for the purpose of enabling an appeal. If no such transfer is made, the court shall forthwith appoint an attorney as guardian ad litem to protect the interests of any minor

children. The court may terminate the parental rights of one or both parents after notice and hearing when the court finds such action to be in the best interests of the children and it appears by the evidence that one or more of the following conditions exist:

(a) Such children have been abandoned by one or both parents;

(b) One or both parents have substantially and continuously or repeatedly neglected the children and have refused to give such children necessary parental care and protection;

(c) One or both parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the children; or

(d) One or both parents are unable to discharge parental responsibilities because of mental illness or mental deficiency; and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period.

Whenever termination of parental rights is placed in issue, the court shall forthwith inform a parent who does not have legal counsel of that parent's right to retain counsel and shall further inform such parent of the parent's right to retain legal counsel at county expense if such parent is unable to afford legal counsel. If such parent is unable to afford legal counsel and requests the court to appoint legal counsel, the court shall immediately appoint an attorney to represent the parent in the termination proceedings. The court shall order the county to pay the attorney's fee and all reasonable expenses incurred by the attorney in protecting the rights of the parent. At such hearing, the guardian ad litem shall take all action necessary to protect the interests of the minor children. The court shall fix the fee and expenses of the guardian ad litem and tax the same as costs, but may order the county to pay on finding the responsible party indigent and unable to pay.

Sec. 17. That section 42-364.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-364.13. (1) A decree dissolving a marriage Any order for support entered by the court shall specifically provide that any person ordered to pay a judgment as part of the dissolution proceedings shall be required to furnish to the clerk of the district court in which the proceeding was held his or her address, telephone number, and social security number, the name of his or her employer, and any other information the court shall deem relevant until such judgment shall be paid in full. The person shall also be required to advise the clerk of any

changes in such information between the time of entry of the decree and the payment of the judgment in full. Failure to comply with the provisions of this section shall be punishable by contempt.

(2) If any case contains an order or judgment for child support or spousal support, the order shall include the following statements:

In the event (respondent or petitioner) fails to pay any such child or spousal support payment, as such failure is certified to the court each month by the district court clerk in cases where court-ordered child support is more than thirty days in arrears delinquent in an amount equal to the support due and payable for a one-month period of time, he or she shall be subject to income withholding and may be required to appear before this in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (respondent or petitioner) fails to pay and appear as so ordered, a warrant shall be issued for his or her arrest.

Sec. 18. The Supreme Court shall provide by court rule, as a rebuttable presumption, guidelines for the establishment of all child support obligations. Child support shall be established in accordance with such guidelines unless the court finds that one or both parties have produced sufficient evidence to rebut the presumption that the application of the guidelines will result in a fair and equitable child support order.

Sec. 19. That section 42-371, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-371. (1) All judgments and orders for payment of money under sections 42-347 to 42-379 and 43-512 to 43-512.10 shall be liens, upon property as in other actions, upon real property and any personal property registered with any county office and may be enforced or collected by execution and the means authorized for collection of money judgments. The judgment creditor may execute a partial or total release of the judgment, generally or on specific real or personal property. Release of judgments for child support or spousal support must be approved by the court which rendered the judgment. The judgment debtor may petition the court which rendered the original judgment for an order releasing the lien as to specific real or personal property. The court shall grant such order upon good cause shown a showing by the judgment debtor that sufficient real or personal property or property interests shall remain indicating the judgment debtor's ability to pay support subject to the lien to cover all support due and which may become due.

(2) Child support and spousal support judgments shall cease to be liens on real or registered personal property ten years from the date (a) the youngest child becomes of age or dies, or (b) the most recent execution

was issued to collect the judgment, whichever is later, and such lien shall not be reinstated.

(3) Alimony and property settlement award judgments, if not covered by subsection (3) of this section, shall cease to be a lien on real or registered personal property ten years from the date (a) the judgment was entered, (b) the most recent payment was made, or (c) the most recent execution was issued to collect the judgment, whichever is latest, and such lien shall not be reinstated.

(4) Whenever a judgment creditor under sections 42-347 to 42-379 refuses to execute a release of the judgment as provided in this section, the person desiring such release may file an application for the relief desired. A copy of the application and a notice of hearing shall be served on the judgment creditor either personally or by registered or certified mail no less than ten days before the date of hearing. If the court finds that the release is not requested for the purpose of avoiding payment and that the release will not unduly reduce the security, the court may release real or personal property from the judgment lien. As a condition for such release, the court may require the posting of a bond with the clerk in an amount fixed by the court, guaranteeing payment of the judgment.

(5) The court may in any case, if it finds it necessary upon application or its own motion, after notice and hearing, order a person required to make payments under sections 42-347 to 42-379 and 43-512 to 43-512.10 to post sufficient security, bond, or other guarantee with the clerk to insure payment of both current and any delinquent amounts. Upon failure to comply with the order, the court may also appoint a receiver to take charge of the debtor's property to insure payment. Any bond, security, or other guarantee paid in cash may, when the court deems it appropriate, be applied either to current payments or to reduce any accumulated arrearage.

Sec. 20. That section 42-821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-821. (1) During a period beginning upon the filing of the petition for ~~reconciliation~~ conciliation and continuing until the earlier of (a) thirty days after the hearing of the petition for conciliation or (b) the dismissal of the petition, neither spouse shall file any action for dissolution of marriage, annulment of marriage, or separate maintenance, except that, for the purpose of protecting the minor children of the parties and the parties, the district courts shall have authority after proper notice to enter orders for temporary custody of minor children, temporary child support, and temporary alimony, notwithstanding any such reconciliation proceedings. An order for temporary child support or an order for temporary alimony which is a part of an order

providing for temporary child support when the spouse and child reside in the same household shall be governed by the provisions of sections 42-347 to 42-379 relating to child and spousal support. Certified copies of such orders shall be filed by the clerk of the court with the clerk of the district court and treated in the same manner as other such orders issued by a district court.

(2) If, after the expiration of such the period specified in subsection (1) of this section, the controversy between the spouses has not been terminated, either spouse may institute proceedings for dissolution of marriage, annulment of marriage, or separate maintenance. The pendency of a dissolution of marriage, annulment, or separate maintenance action shall not operate as a bar to the instituting of proceedings for conciliation under the provisions of sections 42-801 to 42-823 Conciliation Court Law, but if such action be is pending before a petition for conciliation is filed, the court may permit proceeding with such action at any time for good cause shown.

Sec. 21. Sections 21 to 63 of this act shall be known and may be cited as the Income Withholding for Child Support Act.

Sec. 22. It is the intent of the Legislature to encourage the use of all proven techniques for the collection of child and spousal support. While income withholding is the preferred technique, other techniques such as liens on property and contempt proceedings should be used when appropriate. The purpose of the Income Withholding for Child Support Act is to provide a simplified and relatively automatic procedure for implementing income withholding in order to guarantee that child and spousal support obligations are met when income is available for that purpose, to encourage voluntary withholding by obligors, and to facilitate the implementation of income withholding based on foreign support orders.

Sec. 23. For purposes of the Income Withholding for Child Support Act, unless the context otherwise requires, the definitions found in sections 24 to 37 of this act shall be used.

Sec. 24. Authorized attorney shall mean an attorney (1) employed county subject to the approval of the county board, (2) until July 1, 1986, employed by the Department of Social Services, (3) on or after July 1, 1986, employed or appointed by the Attorney General's office, or (4) appointed by the court, who is authorized to investigate and prosecute child and spousal support cases.

Sec. 25. Child support shall mean support for one or more children.

Sec. 26. Department shall mean the Department of Social Services.

Sec. 27. Disposable income shall mean that part of the income of any individual remaining after the

deduction from such income of any amounts required by law to be withheld, excepting the amounts required to be deducted and withheld pursuant to the Income Withholding for Child Support Act or those provisions of law allowing garnishment, attachment, or execution.

Sec. 28. Employee shall mean any person who is compensated by an employer for services performed, regardless of how such compensation is denominated.

Sec. 29. Employer shall mean any person, partnership, firm, corporation, association, political subdivision, or department or agency of the state in possession of income and shall include an obligor if he or she is self-employed.

Sec. 30. Foreign support order shall mean a support order issued by a court or agency of another jurisdiction.

Sec. 31. Income shall mean compensation paid, payable, due, or to be due for personal services, whether denominated as wages, salary, earnings, income, commission, bonus, or otherwise, and shall include any periodic payments pursuant to a pension or a retirement program, dividends, and any other income from whatever source derived.

Sec. 32. Income withholding shall mean retention of an employee's income pursuant to sections 40 to 43 of this act.

Sec. 33. Obligee shall mean a person to whom a duty of support is owed pursuant to a support order.

Sec. 34. Obligor shall mean a person who owes a duty of support pursuant to a support order.

Sec. 35. Spousal support shall mean alimony or maintenance support for a spouse or former spouse if the provision for support is a part of an order, decree, or judgment which provides for child support and the child and spouse or former spouse are living in the same household.

Sec. 36. Support shall mean the providing of necessary shelter, food, clothing, care, medical attention, education expenses, funeral expenses, or any other reasonable and necessary expense.

Sec. 37. Support order shall mean any order, decree, or judgment for child or spousal support or for payment of any arrearage for such support issued by a court or agency of competent jurisdiction, whether issued prior to, on, or after the effective date of this act, whether for temporary or permanent support, whether interlocutory or final, whether or not modifiable, and whether or not incidental to a proceeding for dissolution of marriage, judicial or legal separation, separate maintenance, paternity, guardianship, or civil protection or any other action.

Sec. 38. A support order shall constitute and shall operate as an assignment, to the clerk of the district court or any other official designated to receive

the payment, of that portion of an obligor's income as will be sufficient to pay the amount ordered for child or spousal support and shall be binding on any existing or future employer of the obligor. The assignment shall take effect on the date on which the payments are delinquent in an amount equal to the support due and payable for a one-month period of time and shall have priority as against any attachment, execution, or other assignment unless otherwise specifically ordered by a court of competent jurisdiction.

Sec. 39. It shall be the duty of any employer to respond within ten days to a written request by a county attorney, an authorized attorney, or the department for information concerning: (1) The full name of an obligor; (2) the current address of the obligor; (3) the obligor's social security number; (4) the obligor's work location; (5) the number of the obligor's claimed dependents; (6) the obligor's gross income; (7) the obligor's net income; (8) an itemized statement of deductions from the obligor's income; (9) the obligor's pay schedule; and (10) the obligor's health insurance coverage. The employer shall not be required to provide any other information.

Sec. 40. Upon receiving notice of delinquent child or spousal support payments pursuant to sections 42-358 and 42-358.02, the county attorney or authorized attorney shall send a notice by certified mail to the last-known address of the obligor stating that an assignment of his or her income by means of income withholding shall go into effect within fifteen days from the date the notice is sent and that within the fifteen-day period, the obligor may request a hearing, in the manner specified in the notice, on the issue of whether the assignment should take effect on the grounds that the assignment, including the amount to be withheld, is not valid because of a mistake of fact.

Sec. 41. If the delinquent obligor requests a hearing, the department shall hold a hearing within fifteen days of the date of receipt of the request in accordance with Chapter 84, article 9. The assignment shall be held in abeyance pending the outcome of the hearing. The department shall notify the obligor and the county attorney or authorized attorney of its decision within fifteen days of the date the hearing is held.

Sec. 42. If no hearing is requested by the obligor or if after a hearing the department determines that the assignment should go into effect, the county attorney or authorized attorney shall certify the amount to be withheld from the obligor's disposable income. Such amount shall not in any case exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), nor shall any amount withheld to satisfy a child or spousal support arrearage, when added to the amount

withheld to pay current support and the fee provided for in section 43 of this act, exceed such maximum amount.

Sec. 43. The county attorney or authorized attorney shall notify the obligor's employer, in the manner provided for service of a summons in a civil action, within thirty days of the date the original notice was sent to the obligor or, if a hearing is held, within fifteen days of the date the department's determination is received. The notice shall specify the basis for the assignment of income and shall direct:

(1) That the employer shall withhold from the obligor's disposable income the amount certified by the county attorney or authorized attorney for the purpose of reducing and satisfying the obligor's (a) previous arrearage in child or spousal support payments arising from the obligor's failure to fully comply with a support order previously entered and (b) ongoing obligation for support payments as they become due;

(2) That the employer shall implement income withholding no later than the first pay period that occurs after fourteen days following the date the notice is served;

(3) That the employer shall pay to the obligor, on his or her regularly scheduled payday, such income then due which is not certified to be withheld pursuant to section 42 of this act or any court order;

(4) That the employer may assess an additional administrative fee from the employee's disposable earnings not to exceed ten dollars in any calendar month as compensation for the employer's reasonable cost incurred in complying with the notice;

(5) That the employer shall remit in the manner specified in the notice the income withheld, less the deduction allowed as an administrative expense by subdivision (4) of this section, to the clerk of the district court designated in the notice;

(6) That the employer shall notify the county attorney or authorized attorney in writing of the termination of the employment of the obligor, the last-known address of the obligor, and the name and address of the obligor's new employer, if known, and shall provide such written notification within thirty days after the termination of employment;

(7) That income withholding is binding on the employer until further notice by the county attorney or authorized attorney;

(8) That the employer may combine amounts required to be withheld from the income of two or more obligors in a single payment to each clerk designated in an income withholding notice if the portion of the single payment which is attributable to each individual obligor is separately identified; and

(9) That an employer who fails to withhold and

remit income of an obligor after receiving proper notice or who discriminates, demotes, disciplines, or terminates an employee after receiving an income withholding notice shall be subject to the penalties prescribed in sections 44 and 45 of this act.

Compliance with the order by the employer shall operate as a discharge of the employer's liability to the obligor as to the portion of the obligor's income withheld.

Sec. 44. Any employer who fails to withhold and remit any income of an obligor employed by him or her after proper notice as provided in section 43 of this act shall be required to pay the certified amount to the clerk of the district court specified in the notice. The county attorney or authorized attorney may file an action in district court to enforce this section.

Sec. 45. An employer shall not use an income withholding notice or order or the possibility of income withholding as a basis for (1) discrimination in hiring, (2) demotion of an employee, (3) disciplinary action against an employee, or (4) termination of an employee.

Upon application by the county attorney or authorized attorney and after a hearing on the matter, the court may impose a civil fine of up to five hundred dollars for each violation of this section.

An employer who violates this section may be required to make full restitution to the aggrieved employee, including reinstatement and backpay.

Sec. 46. A notice to withhold income shall terminate without any court action or action by the county attorney or authorized attorney thirty days after the obligor ceases employment with the employer. The employer shall return a copy of the notice to withhold income to the county attorney or authorized attorney, indicate that employment has ceased, and cooperate in providing any known forwarding information. The county attorney or authorized attorney shall notify the clerk of the appropriate district court that such employment has ceased. A notice to withhold income shall also terminate when the child or spousal support obligation terminates, in which case the county attorney or authorized attorney shall notify the employer to cease withholding income.

Sec. 47. An income withholding notice may be modified or revoked by a court of competent jurisdiction or by the county attorney or authorized attorney, for good cause shown, after notice and a hearing on the issue.

Sec. 48. (1) On behalf of any client for whom the department is providing services either directly or pursuant to a contract with a county attorney or authorized attorney or (2) on application of a resident of this state, an obligee or obligor of a support order issued in this state, or an agency to whom an obligee has assigned child or spousal support rights, the department shall promptly request the agency of another jurisdiction in which the

obligor derives income to receive and file such request for the purpose of obtaining a withholding order against such income. The department shall promptly compile and transmit to the agency of the cooperating jurisdiction all documentation required to effectuate an income withholding order. The department also shall transmit immediately to the agency of the cooperating jurisdiction a certified copy of any subsequent modification of any support order. The department may contract with an agent to carry out its powers and duties pursuant to sections 48 to 62 of this act.

Sec. 49. Upon receiving a foreign support order and the documentation specified in section 50 of this act from an agency of another jurisdiction, an obligee, an obligor, or an attorney for either, the department shall transmit such order and documents to be filed with the clerk of the district court in the jurisdiction within this state in which income withholding is being sought. The clerk of the district court shall accept the documents filed, and such acceptance shall constitute entry of the foreign support order for purposes of income withholding.

The filing process required by this section shall not be construed as requiring an application, petition, answer, and hearing as might be required for the registration of foreign judgments by the Uniform Enforcement of Foreign Judgments Act or the Revised Uniform Reciprocal Enforcement of Support Act. The purpose of this section is to enable the clerk of the district court to receive, account for, and distribute collections generated by income withholding.

Sec. 50. The following documentation shall be required for the entry of a foreign support order:

- (1) A certified copy of the foreign support order with all modifications;
- (2) A certified copy of an income withholding order or notice, if any, still in effect;
- (3) A copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining an income withholding order or notice under the law of such jurisdiction;
- (4) A sworn statement of the obligee or certified statement of the requesting agency of the arrearages of child or spousal support payments and the assignment of the support rights, if any;
- (5) A statement of the name, address, and social security number of the obligor, if known;
- (6) A statement of the name and address of the obligor's employer or of any other source of income of the obligor derived in this state from which income withholding is sought; and
- (7) A statement of the name and address of the agency or person to whom support payments collected by

income withholding shall be transmitted.

Sec. 51. If the documentation received by the department does not conform to the requirements of section 50 of this act, the department shall remedy any defect which it can without the assistance of the requesting agency or person. If the department is unable to make such corrections, the requesting agency or person shall immediately be notified of the necessary additions or corrections. In neither case shall the original documentation be returned. The department and the receiving court shall accept the documentation required by section 50 of this act even if it is not in the usual form required by state or local law or rules so long as the substantive requirements of such section are met.

Sec. 52. A foreign support order entered pursuant to section 49 of this act shall be enforceable by withholding from income derived in this state in the manner and with the same effect as income withholding based on a support order of this state, except that any hearing requested by the obligor to contest any proposed income withholding shall be held by a court as provided in section 53 of this act instead of by the department. Entry of the order shall not confer jurisdiction on the courts of this state for any purpose other than income withholding.

Sec. 53. Within ten days of the date a foreign support order is entered pursuant to section 49 of this act, the county attorney or authorized attorney shall serve upon the obligor notice of proposed income withholding in accordance with section 40 of this act. The notice shall also advise the obligor that income withholding was requested on the basis of a foreign support order.

If the obligor seeks a hearing to contest the proposed income withholding, the county attorney or authorized attorney shall immediately notify the obligee and obligor, or their attorneys, of the date, time, and place of the hearing.

Any such hearing shall be held by the appropriate court in the same manner as a civil action, except as provided otherwise in sections 54 to 57 of this act.

Sec. 54. At any hearing contesting a proposed income withholding based on a foreign support order entered under section 49 of this act, the entered order, the certified copy of an income withholding order or notice, if any, still in effect, and the sworn or certified statement concerning arrearages and any assignment of rights shall constitute prima facie evidence, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

Once a prima facie case has been established, the obligor may raise only the following issues:

(1) That withholding is not proper because of a mistake of fact, that is not res judicata, concerning matters such as an error in the amount of current support owed or the arrearage that has accrued, mistaken identity of the obligor, or error in the amount of income to be withheld;

(2) That the court or agency which issued the support order lacked personal jurisdiction over the obligor;

(3) That the support order was obtained by fraud; or

(4) That the statute of limitations, as provided in subsection (3) of section 62 of this act, precludes enforcement of all or part of the arrearages.

The burden shall be on the obligor to establish such defenses.

Sec. 55. If the obligor presents evidence which constitutes a full or partial defense under section 54 of this act, the court shall, on the request of the obligee, continue the case to permit further evidence relative to the defense to be adduced by either party, except that if the obligor acknowledges liability sufficient to entitle the obligee to income withholding, the court shall require such withholding for the payment of current child or spousal support payments under the foreign support order and of so much of any arrearage as is not in dispute, while continuing the case with respect to those matters still in dispute. The court shall determine such matters as soon as possible and if appropriate shall modify the withholding order to conform to its determination.

Sec. 56. (1) In addition to other procedural devices available to a party, any party to an income withholding proceeding based on a foreign support order or a guardian ad litem or other representative of the child may adduce testimony of witnesses in another state, including the parties and any of the children, by deposition, by written discovery, by electronic discovery such as videotaped depositions, or by personal appearance before the court by telephone or electronic means. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

(2) A court of this state may request the appropriate court or agency of another state to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that state, and to forward to the court of this state certified copies of the evidence adduced in compliance with the request.

(3) Upon request of a court or agency of another state, the courts of this state which are competent to hear support matters may order a person in this state to appear at a hearing or deposition before the court to adduce evidence or to produce or give evidence under other procedures available in this state. A certified copy of the evidence adduced, such as a transcript or videotape, shall be forwarded by the clerk of the court to the requesting court or agency.

(4) A person within this state may voluntarily testify by statement or affidavit in this state for use in a proceeding to obtain income withholding outside this state.

Sec. 57. If the obligor does not request a hearing in the time provided or if a hearing is held and it is determined that the obligee has been or is entitled to income withholding under the local law of the jurisdiction which issued the foreign support order, the court shall issue an income withholding order to the obligor's employer in the same manner as the notice provided for in section 43 of this act.

Sec. 58. A foreign support order entered pursuant to section 49 of this act shall not nullify and shall not be nullified by a support order made by a court of this state pursuant to any other law or by any other foreign support order. Amounts collected by any income withholding shall be credited against the amounts accruing or accrued for any period under any support order issued by this state which is the subject of an income withholding notice or any other foreign support order which is the subject of an income withholding order pursuant to section 57 of this act.

Sec. 59. Upon receiving a certified copy of any amendment or modification to a foreign support order entered pursuant to section 49 of this act, the department shall initiate necessary procedures to amend or modify the income withholding order of this state which was based upon the foreign support order in the same manner as if it were a support order of this state.

Sec. 60. If the county attorney or authorized attorney determines that an obligor subject to a foreign support order has obtained employment in another state or has a new or additional source of income in another state, he or she shall notify the agency or person who requested the income withholding of the changes and shall forward to such agency or person all information he or she has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or other source of income. The county attorney or authorized attorney shall include with the notice a certified copy of the income withholding order or notice in effect in this state.

Sec. 61. Any person who is the obligor on a

foreign support order may obtain voluntary income withholding by filing with the court a request for such withholding and a certified copy of the foreign support order. The court shall issue an income withholding order pursuant to section 57 of this act. Payment shall be made to the clerk of the district court specified in the order.

Sec. 62. (1) Except as provided in subsections (2) and (3) of this section, the local law of this state shall apply in all actions and proceedings concerning the issuance, enforcement, and duration of income withholding orders issued by a court of this state based upon a foreign support order entered pursuant to section 49 of this act.

(2) The local law of the jurisdiction which issued the foreign support order shall govern the following:

(a) The interpretation of the support order including amount of support, form of payment, and duration of support;

(b) The amount of support arrearages necessary to require the issuance of an income withholding order or notice; and

(c) The definition of what costs, in addition to the periodic support obligation, are included as arrearages which are enforceable by income withholding, including, but not limited to, interest, attorney's fees, court costs, and costs of paternity testing.

(3) The court shall apply the statute of limitations for maintaining an action on arrearages of support payments of either the local law of this state or of the state which issued the foreign support order, whichever provides the longer period of time.

Sec. 63. Nothing in the Income Withholding for Child Support Act shall be construed as prohibiting a person from consenting to an income withholding order as part of a property settlement agreement incorporated into a decree dissolving a marriage or by agreement in a proceeding in the district court, county court sitting as a juvenile court, or separate juvenile court in which the payment of child or spousal support is an issue. Any such order or agreement shall be filed with the clerk of the district court who shall notify the person's employer, if any, of the order or agreement by first-class mail and file a record of such mailing in the court. The income withholding shall be treated in all other respects the same as an income withholding initiated pursuant to section 40 of this act.

Sec. 64. That section 43-2,113, Revised Statutes Supplement, 1985, be amended to read as follows:

43-2,113. Where a separate juvenile court is established, the county board of the county shall provide suitable rooms and offices for the accommodation of the judge thereof and the officers and employees appointed by such judge or by the probation administrator pursuant to

subsection (3) of section 29-2253. Such separate juvenile court, the judge thereof, and the officers and employees of such court shall have the same and exclusive jurisdiction, powers, and duties that are prescribed in the Nebraska Juvenile Code, concurrent jurisdiction under sections 83-223 and 83-1101 to 83-1139, and such other jurisdiction, powers, and duties as may hereafter be specifically provided by law. A juvenile court created in a separate juvenile court judicial district or a county court sitting as a juvenile court in all other counties shall have and exercise jurisdiction within such juvenile court judicial district or county court judicial district with the district court in all matters arising under Chapter 42, article 3, when the care, support, custody, or control of minor children under the age of eighteen years is involved. Such cases shall be filed in the district court and may with the consent of the juvenile judge be transferred to the docket of the separate juvenile court or county court. All orders issued by such court which provide for child support or spousal support, as defined in section 42-347, shall be governed by the provisions of sections 42-347 to 42-379 relating to such support. Certified copies of such orders shall be filed by the clerk of the separate juvenile or county court with the clerk of the district court. There shall be no fee charged for the filing of such certified copies.

Sec. 65. That section 43-512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512. (1) Any dependent child, as defined in section 43-504, or any relative of such dependent child may file with the Department of Social Services a written application for financial assistance for such child on forms furnished by the department.

(2) ~~The Department of Social Services~~ department, through its agents and employees, shall thereupon make such investigation as it deems necessary or as may be required by the county attorney. If the investigation or the application for financial assistance discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the finding of such investigation and a copy of the application shall immediately be filed with the county attorney or any authorized attorney employed by the county, subject to the approval of the county board, or the Director of Social Services and authorized to investigate and prosecute child support cases in accordance with section 42-358 or sections 43-512-01 to 43-512-10.

(3) ~~The Department of Social Services~~ department shall make a finding as to whether the application referred to in subsection (1) of this section shall be allowed or denied. If it is found that ~~said~~ the application should be allowed, the department shall further find the amount of

monthly assistance which should be paid with reference to such dependent child. Except as may be otherwise provided, payments shall be made by state warrant, and the amount of payments shall not exceed two hundred ninety-three dollars per month where there is but one dependent child and one eligible caretaker relative in any home, plus an additional seventy-one dollars per month on behalf of each additional eligible person. No payments shall be made for amounts totaling less than ten dollars per month, except in the recovery of overpayments.

(4) The amount which shall be paid as assistance with respect to a dependent child shall be based in each case upon the conditions disclosed by the investigation made by the department. An appeal shall lie from the finding made in each case to the Director of Social Services. Such appeal may be taken by any taxpayer or by any relative of such child. Proceedings for and upon appeal shall be conducted in the same manner as provided for in section 68-1016.

(5) For the purpose of preventing dependency, the Director of Social Services is authorized to adopt and promulgate rules and regulations providing for services to former and potential recipients of aid to dependent children and medical assistance benefits. The director is further authorized to adopt and promulgate rules and regulations establishing programs and cooperating with programs of work incentive, work experience, job training, and education. The provisions of this section with regard to determination of need, amount of payment, maximum payment, and method of payment shall not be applicable to families or children included in such programs.

(6) For purposes of sections 43-512 to 43-512.10, unless the context otherwise requires:

(a) Authorized attorney shall mean an attorney employed by the county subject to the approval of the county board; until July 1, 1986, employed by the Department of Social Services; on or after July 1, 1986, employed or appointed by the Attorney General's office; or appointed by the court, who is authorized to investigate and prosecute child and spousal support cases; and

(b) Spousal support shall be defined as provided in section 42-347.

Sec. 66. That section 43-512.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.01. It shall be the duty of the county attorney or authorized attorney, as provided in section 43-512, when a copy of the finding of investigation or the application for financial assistance has been filed with him or her as provided in section 43-512, or when an application has been made pursuant to section 43-512.02, to immediately take action against the nonsupporting parent or stepparent of the dependent child. It shall be

the duty of the county attorney, ~~deputy county attorney,~~ or authorized attorney to initiate a child support enforcement action. If the county attorney ~~or deputy county attorney~~ initiates an action, he or she shall file either a criminal complaint for nonsupport under section 28-706 or a civil petition against the nonsupporting parent or stepparent under ~~the provisions of~~ section 43-512.03. If the attorney who initiates a child support enforcement action is an authorized attorney, ~~other than the county attorney or deputy county attorney,~~ he or she shall file a civil petition against the nonsupporting parent or stepparent pursuant to section 43-512.03.

Sec. 67. That section 43-512.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.02. (1) Any child, or any relative of such a child, may file with the county attorney, authorized attorney, ~~as provided in section 43-512,~~ county welfare office, or other county office designated by the Department of Social Services an application for the same child and spousal support collection or paternity determination services as are provided to dependent children and their relatives under sections 43-512 to 43-512.10 by the Department of Social Services, the county attorney, authorized attorney, and the clerk of the district court.

(2) If an office other than the office of the county attorney or authorized attorney is authorized by the Department of Social Services to accept such applications, and if the application discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the application shall immediately be filed with the county attorney or an authorized attorney, ~~appointed by the district court to initiate enforcement proceedings.~~

(3)(a) The Department of Social Services shall determine an application fee to be charged to each individual who applies for services available in this section which shall not exceed the fee amount allowed by Title IV-D of the Social Security Act, as amended. The fee shall be collected from the individual who applies for services under Title IV-D of the Social Security Act, as amended. The county attorney or authorized attorney may recover the fee from the parent or stepparent who owes child or spousal support and reimburse the applicant. The fee shall be collected by the governmental entity which is actually collecting the delinquent support payments and placed in the appropriate fund sent to the department.

(b) The department ~~shall impose an additional fee to cover the costs incurred when~~ may establish a schedule of amounts to be charged to recover any costs incurred in excess of any fees collected to cover administrative costs of providing the full scope of

services outlined in this section required by state law. The department shall by regulation establish a fee schedule and make such schedule based upon a sliding scale using fifteen thousand dollars gross income and one dependent as the basis for establishing the fee scale of amounts to be paid for such services based upon the actual costs incurred in providing such services. The schedule shall be made available to all applicants for such services. Any amount charged to recover costs may be collected from the parent or stepparent who owes child or spousal support or from the individual who has applied for enforcement services, either directly from such individual or from the child or spousal support collected, but only if the individual has been notified that the county attorney or authorized attorney will recover costs from an individual who receives enforcement services. The department shall not impose an application fee for services in any case in which the department is authorized to continue to collect and distribute support payments after a family ceases to receive aid to dependent children payments. The application fee and additional fee shall be recovered from the parent who owes the delinquent child support. If such owing parent cannot be located or is judged incapable of paying and the individual receiving the services meets the standards of the fee schedule for ability to pay, the individual receiving the services shall be assessed such fees:

The fee to be imposed shall be acknowledged, in writing, by the individual requesting such services. All fees collected pursuant to this section shall be remitted to the Department of Social Services for proper accounting and distribution purposes in accordance with other provisions of law.

Sec. 68. That section 43-512.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.03. The county attorney or authorized attorney, as provided in section 43-512, shall:

(1) On request by the Department of Social Services, or when the investigation or application filed under section 43-512 or 43-512.02 justifies, file a petition against a nonsupporting parent or stepparent in the district court praying for an order for child support in cases when there is no existing child support order. After notice and hearing, the court shall adjudicate child support liability of the nonsupporting parent or stepparent and enter an order accordingly;

(2) Enforce child and spousal support orders by an action for income withholding pursuant to the Income Withholding for Child Support Act;

(3) If income withholding is not feasible, enforce child and spousal support orders by other civil action actions, citing the defendant for contempt, or

filing a criminal complaint; and

(4) ~~(3)~~ Establish paternity and collect child support on behalf of children born out of wedlock.

Sec. 69. That section 43-512.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.05. (1) The It shall be the duty of the clerks of the district courts shall to furnish the Department of Social Services monthly statistical information and any other information necessary required by the department to properly account for the child and spousal support payments. transmitted to the department. The clerk of each district court shall negotiate and enter into a written agreement with the department in order to receive reimbursement for the costs incurred in carrying out sections 43-512 to 43-512.10.

(2) The department Director of Social Services and the governing board of the county, county attorney, or authorized attorney may enter into a written agreement regarding the determination of paternity and child and spousal support enforcement for the purpose of implementing sections 43-512 to 43-512.10. Paternity shall be established when it can be determined that the collection of child support is feasible.

(3) The department shall adopt and promulgate rules and regulations regarding the rate and manner of reimbursement for costs incurred in carrying out sections 43-512 to 43-512.10, taking into account relevant federal law, available federal funds, and any appropriations made by the Legislature. Any reimbursement funds shall be added to the budgets of those county officials who have performed the services as called for in the cooperative agreements and carried over from year to year as required by law.

Sec. 70. That section 43-512.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.06. Notwithstanding any other provisions of law regarding confidentiality of records, every department and agency of state, county, and city government shall assist and cooperate with the Department of Social Services in locating absent parents, determining an absent parent's income, and identifying an absent parent's employer for the exclusive purpose of collecting child and spousal support. Such information shall be used for no other purpose.

Sec. 71. That section 43-512.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.07. The application for and acceptance of an aid to dependent children payment by a parent or other relative shall constitute an assignment of the right to child and spousal support payments and arrearages, from the inception of the court order, to the Department of

Social Services up to the amount of aid to dependent children paid to the recipient. Child and spousal support payments made pursuant to a court order shall be paid to the Department of Social Services upon notice by the department to the clerk of the district court that the child is a recipient of public assistance. Upon receipt of notice from the department of such assignment of ~~child~~ support payments, each clerk of the district court shall transmit the payments received to the department in accordance with the cooperative agreement provided for in section 43-512.05, without the requirement of a subsequent order by the court. The clerk of the district court shall continue to transmit the payments for as long as the aid to dependent children payment continues. Any court-ordered child or spousal support remaining unpaid during the period of the assignment to the department shall constitute a debt and a continuing assignment at the termination of aid to dependent children payments, collectible by the department as reimbursement for aid to dependent children payments. The continuing assignment shall only apply to ~~child~~ support payments made during a calendar period which exceed the specific amount of support ordered for that period. When aid to dependent children payments have ceased, and upon notice by the department, the clerk of the district court shall continue to transmit to the department any support payments received on arrearages in excess of the amount of support ordered for that specific calendar period, until notified by the department that the debt has been paid in full.

Sec. 72. That section 43-512.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.08. The county attorney or authorized attorney may intervene in ~~or reopen~~ any proceeding for dissolution of marriage, separate maintenance, or child or spousal support, for the purpose of securing an order for child or spousal support or amending an order for inadequate child support. Such proceedings shall be limited only to the determination of child support. The county attorney or authorized attorney shall so act only when it appears that the children are not otherwise represented by counsel.

Sec. 73. That section 43-512.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-512.10. Sections 43-512 to 43-512.10 shall be interpreted so as to facilitate the determination of paternity and child and spousal support enforcement.

Sec. 74. That section 43-1406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1406. The father of a child whose paternity is established either by acknowledgment or by a judicial proceeding as hereinafter specified, not having entered

into a judicially approved settlement, or being in default in the performance of the same, may be made the defendant in an equitable proceeding for the support of the child. Such proceeding shall be commenced by a complaint of the mother of the child, the guardian or next friend of the child, or the county which may be required to support the child, the county attorney, or an authorized attorney as defined in section 43-512 who which shall set forth the facts of paternity and of nonsupport and shall ask that the father be ordered to provide for the support of the child. Summons shall issue against the father and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county. The method of trial shall be the same as in actions formerly cognizable in equity, and jurisdiction is hereby vested in the district court of the district where the child is domiciled or found, to hear and determine such actions for support. If the court shall find that the father has failed adequately to support the child, it shall issue a decree directing him to do so, specifying the amount of such support and the manner in which it shall be furnished. The court in its discretion, after notice and hearing, may order implementation of income withholding pursuant to the Income Withholding for Child Support Act, if income withholding is appropriate, or may require the furnishing of bond to insure the performance of the decree in the same manner as is provided for in section 43-1405. Failure on the part of the father to perform the terms of such decree shall constitute contempt of court and may be dealt with in the same manner as other contempts.

Sec. 75. That section 43-1411, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1411. A civil proceeding to establish the paternity of a child may be instituted in any district court of the district where the child is domiciled or found, by the mother of such child, either during pregnancy or within ~~four~~ eighteen years after its birth, or by the guardian or next friend of such child. Summons shall issue and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county.

Sec. 76. That section 48-647, Revised Statutes Supplement, 1985, be amended to read as follows:

48-647. (1) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the

collection of all debts except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void. Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void, and the same shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt, and any waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child or spousal support obligations as defined under subdivision (g) of this subsection. If such individual discloses that he or she owes child or spousal support obligations, and is determined to be eligible for unemployment compensation, the commissioner shall notify the Director of Social Services that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child or spousal support obligations as defined under subdivision (g) of this subsection:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subsection is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the Director of Social Services and such individual owing the obligations to have a specified amount withheld and such agreement being submitted to the commissioner, unless subdivision (iii) of this subsection is applicable; or

(iii) The amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (h) of this subsection, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the Director of Social Services.

(d) Any amount deducted and withheld under subdivision (b) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the Director of Social Services in satisfaction of his or her child or spousal support obligations.

(e) For purposes of subdivisions (a) through (d) of this subsection, the term unemployment compensation shall mean any compensation payable under the Employment

Security Law and including amounts payable by the commissioner pursuant to an agreement by any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This section applies only if appropriate arrangements have been made for reimbursement by the Department of Social Services for the administrative costs incurred by the commissioner under this section which are attributable to child or spousal support obligations being enforced by the Department of Social Services.

(g) For the purpose of this section, the term terms child support obligations and spousal support obligations include ~~includes~~ only obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

(h) For the purposes of this section, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States, or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child or spousal support.

Sec. 77. That section 77-27,161, Revised Statutes Supplement, 1984, be amended to read as follows:

77-27,161. For purposes of sections 77-27,160 to 77-27,173, unless the context otherwise requires:

(1) Debt shall mean any liquidated amount due and owing any claimant which has accrued through assignment, contract, subrogation, court judgment, or operation of law, regardless of whether there is an outstanding judgment for such amount, and which is for the care, support, or maintenance of a child;

(2) Debtor shall mean any individual owing money to or having a delinquent account with any claimant which has not been satisfied by court order, set aside by court order, or discharged in bankruptcy;

(3) Claimant shall mean:

(a) ~~the~~ The Department of Social Services with respect to collection of a debt owed by a parent in a case involving a recipient of aid to dependent children in which rights to child support payments have been assigned to this state; ~~or~~

(b) ~~an~~ An individual who is not eligible as a public assistance recipient and to whom a child support debt is owed; or

(c) Any person or entity entitled to receive child support or spousal support, as defined in section 35 of this act, pursuant to an order issued by a court or agency of another state or jurisdiction, including an agency of another state or jurisdiction to which a person has assigned his or her right to receive such support. Such a claimant shall submit certification and documentation sufficient to satisfy the requirements of section 50 of this act; and

(4) Refund shall mean any Nebraska state income tax refund which the Department of Revenue determines to be due an individual taxpayer. In the case of a joint income tax return, it is presumed that each partner to the marriage submitting such return contributed one half of the earnings upon which the refund is based. The presumption may be contested by the state, the delinquent taxpayer, and the innocent spouse by virtue of the hearing process prescribed in section 77-27,169.

Sec. 78. (1) It is the intent of the Legislature that the Attorney General's office shall ensure the effective and efficient administration of the child support enforcement program. On or after July 1, 1986, the Attorney General's office shall assume the responsibilities and may exercise the authorities held by authorized attorneys employed by the Department of Social Services, except that the Attorney General's office may take any actions necessary to ensure the orderly transfer of such responsibilities from the department to the Attorney General's office prior to such date. The Attorney General shall encourage and assist county attorneys or other authorized attorneys to establish paternity through appropriate action, obtain child support orders, enforce child support orders, and, when appropriate, spousal support orders in every county of the state. The Attorney General shall review the administration of such programs to provide uniformity of enforcement procedures throughout the state.

(2) At the request of the county attorney, the Attorney General's office may assume control and administer the provisions of this act in the county which such county attorney represents. After the Attorney General's office assumes the duties prescribed in this act, such duties shall be relinquished only by mutual agreement between the county attorney and the Attorney General's office. The authority granted by this section shall be in addition to the authority granted in section 84-204.

(3) There is hereby created the Attorney General Support Enforcement Cash Fund. Such fund shall be used to help defray the expenses of administering this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 79. That original sections 42-347, 42-348, 42-358, 42-358.02, 42-358.05 to 42-358.08, 42-364.13, 42-371, 42-821, 43-512 to 43-512.03, 43-512.05 to 43-512.08, 43-512.10, 43-1406, and 43-1411, Reissue Revised Statutes of Nebraska, 1943, section 77-27.161, Revised Statutes Supplement, 1984, and sections 42-364, 43-2,113, and 48-647, Revised Statutes Supplement, 1985, are repealed.

Sec. 80. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.