

LEGISLATIVE BILL 960

Approved by the Governor April 5, 1978

Introduced by Appropriations Committee, Warner, 25,
Chmn.; Bereuter, 24; Cope, 36; S. Marsh, 29;
Savage, 10; Fowler, 27; Rumery, 42,
Hasebroock, 18; Goodrich, 20

AN ACT to amend sections 42-358, 43-512.05, and
43-512.10, Revised Statutes Supplement, 1976,
relating to child support; to correct
erroneous references; to repeal the original
sections; and to declare an emergency.

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

Section 1. That section 42-358, Revised Statutes
Supplement, 1976, 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 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
court-ordered child support is more than thirty days in
arrears to the judge presiding over domestic relations
cases. A rebuttable presumption of contempt shall be
established if a prima facie showing is made that the
court-ordered child support is in arrears for more than
thirty days. In each case certified, if no 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
consents, 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 deputy county attorney shall be paid to the county treasurer who shall deposit such fees to the credit of the county general fund. 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 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, 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 act section and sections 42-358.08 and 42-821 may be found liable to pay child support payments.

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

Sec. 2. That section 43-512.05, Revised Statutes Supplement, 1976, be amended to read as follows:

43-512.05. The clerks of the district courts shall furnish the Department of Public Welfare information necessary to properly account for the child support payments transmitted to the department. The clerk of each district court shall negotiate and enter into a written agreement with the department to reimburse the county for seventy-five per cent of the costs incurred in carrying out the provisions of this act section and sections 43-512.01, 43-512.03, 43-512.04, and 43-512.06 to 43-512.10. Before funds are advanced for administrative expenses of the county attorney's office, the Director of Public Welfare and county attorney shall negotiate and enter into a written agreement regarding the determination of paternity and child support enforcement for the purpose of implementing the provisions of this act section and sections 43-512.01, 43-512.03, 43-512.04, and 43-512.06 to 43-512.10.

Paternity shall be established when it can be determined that the collection of child support is feasible. The department shall reimburse the county for seventy-five per cent of the costs incurred in carrying out the provisions of this act section and sections 43-512.01, 43-512.03, 43-512.04, and 43-512.06 to 43-512.10. Such 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. 3. That section 43-512.10, Revised Statutes Supplement, 1976, be amended to read as follows:

43-512.10. This--act Sections 43-512.01 and 43-512.03 to 43-512.10 shall be interpreted so as to facilitate the determination of paternity and child support enforcement.

Sec. 4. That original sections 42-358, 43-512.05, and 43-512.10, Revised Statutes Supplement, 1976, are repealed.

Sec. 5. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.