

March 6, 1974

PRESIDENT: Is this an amendment to the standing committee amendment? Yes, it is, okay. Any discussion? Voice Vote. Those in favor of the Schmit amendment, say aye. Opposed no. The amendment is adopted. Now we go to the committee amendments. Senator Schmit.

SENATOR SCHMIT: Mr. President and members of the Legislature. This committee amendment amends the bill LB957 to provide for these things. It provides the clerks of the courts shall examine all of the files in cases of child support and shall maintain records which document the arrearages principally which are due to children. The other portion of the committee amendment provides that where the original bill revokes the drivers license of an individual who was in arrears for 60 days, this amendment provides that the person whose license shall be revoked, instead of having it revoked, it shall be suspended. And it shall be suspended except for the time he is driving to and from work or in the nature of his employment. This is what the bill does. It provides these things. First, of all, the clerks of the courts shall maintain records to determine arrearages and secondly, it provides for suspension of license except for that portion of the time which the individual needs a license in the nature of his employment. And I move for the adoption of the committee amendment.

PRESIDENT: Any discussion? Those in favor....Senator Luedtke.

SENATOR LUEDTKE: Mr. President and members of the Legislature. I'm sorry Senator Fellman is not here today. Senator Fellman, who is chairman of our sub-committee on the Judiciary Committee, studying this particular area, but the matter of the District Court and the District Court Clerk determining arrearages is going to be a very, very difficult physical thing to do because one of the great arguments and one of the great imponderables in this whole matter of child support payment is what is in arrears. Many of the arguments that we have in District Court over child support payments is when one party says you didn't pay me all you owe me. The other party says I paid you more than you've got coming. And it all comes about because of the fact that in many instances there are payments made directly to the individual. There are payments made that do not go through the Clerk of the District Court even though they're ordered to go through the Clerk of the District Court and when it comes up before the judge, the judge allows some of those to be credited. In this case, you're going to have a ministerial officer and that's what the Clerk of the District Court is, he's a ministerial officer. He is not a judge, he cannot make a determination as to what is in arrears actually. He merely accepts the money and distributes the money and we're making him, in effect, a judge by this bill. And I think this is one thing that is going to be very difficult. This is probably why the handout that Senator Fellman put on your desk when we were discussing these bills, discussing LB1015 the other day, says and this is the one by the Family Law Committee of the Nebraska Bar Association. It says and I'll quote, "We have polled the members of our committee (that's the Family Law Committee of the Nebraska State Bar Association). Our primary concern is LB957 which we feel is unconstitutional and should be defeated. We hope you will convey our position on this bill to the members of the Legislature, particularly those lawyers in the Legislature," which has already been done and that was conveyed to the sub-committee on these particular matters of the Judiciary Committee. I am very concerned about this particular approach.