

LEGISLATIVE BILL 523

Approved by the Governor May 25, 1993

Introduced by Bohlke, 33; Day, 19; Hillman, 48; Hohenstein, 17;
Pirsch, 10; Rasmussen, 20; Robak, 22;
Schimek, 27; Wesely, 26; Wickersham, 49

AN ACT relating to support obligations; to amend sections 42-364.13, 42-763, 42-773, 42-779, 42-799, 43-1711, 43-1712, and 43-1733, Reissue Revised Statutes of Nebraska, 1943, sections 42-368, 42-371, 43-512.12, 43-512.14, 43-512.15, 43-512.17, 43-1708, 43-1720, 43-1722 to 43-1726, 43-1728, 43-1737, 48-161, and 48-647, Revised Statutes Supplement, 1992, and section 48-149, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 118, Ninety-third Legislature, First Session, 1993; to change provisions relating to child, medical, and spousal support; to change provisions of the Revised Uniform Reciprocal Enforcement of Support Act; to provide and change provisions relating to income withholding; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 42-364.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-364.13. (1) Any order for support entered by the court shall specifically provide that any person ordered to pay a judgment shall be required to furnish to the clerk of the district court his or her address, telephone number, and social security number, the name of his or her employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information the court ~~shall deem~~ deems relevant until such judgment ~~shall be~~ is 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. If both parents are parties to the action, such order shall provide that each be required to furnish to the clerk of the district court whether he or she has access to employer-related health insurance coverage and, if so, the health insurance policy information. Failure to comply with this section shall be punishable by contempt.

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

In the event (respondent or petitioner) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the district court clerk in cases where in which

court-ordered support is 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 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 ordered, a warrant shall be issued for his or her arrest.

(3) If the court orders income withholding regardless of whether or not payments are in arrears pursuant to section 43-1718.01, the statement in subsection (2) of this section may be altered to read as follows:

In the event (respondent or petitioner) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the district court clerk in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she may be required to appear 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 ordered, a warrant shall be issued for his or her arrest.

Sec. 2. That section 42-368, Revised Statutes Supplement, 1992, be amended to read as follows:

42-368. When a legal separation is decreed, the court may order payment of such support by one party to the other as may be reasonable, having regard for the circumstances of the parties and the ability of the supported party to engage in gainful employment without interfering with the interests of any minor children in the custody of such party. ~~Orders for support in cases in which no party has applied for services under Title IV-D of the Social Security Act, as amended,~~ may be modified or revoked for good cause shown upon notice and hearing, except as to amounts accrued prior to date of service of motion to modify, to which date modification may be retroactive. Orders for child support in cases in which a party has applied for services under Title IV-D of the Social Security Act, as amended, shall be reviewed as provided in sections 43-512.12 to 43-512.18.

Sec. 3. That section 42-371, Revised Statutes Supplement, 1992, be amended to read as follows:

42-371. Under sections 42-347 to 42-379, 43-290, 43-512 to 43-512.10, and 43-1401 to 43-1418:

(1) All judgments and orders for payment of money shall be liens, 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 unless all such payments are current, in which case a release executed by the judgment creditor shall be sufficient to remove the lien. A properly executed, notarized release

explicitly reciting that all child support payments or spousal support payments are current shall be prima facie evidence that such payments are in fact current. 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 a showing by the judgment debtor that sufficient real or personal property or property interests shall remain 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 subdivision (2) 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 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, upon application or its own motion, after notice and hearing, order a person required to make payments 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; ~~and~~

(6) The lien of a mortgage or deed of trust which secures a loan, the proceeds of which are used to purchase real property, shall attach prior to any lien authorized by this section. Any mortgage or deed of trust which secures the refinancing, renewal, or extension of a real property purchase money mortgage or deed of trust shall have the same lien priority with respect to any lien authorized by this section as the original real property purchase money mortgage or deed of trust to the extent that the amount of the loan refinanced, renewed, or extended does not exceed the amount used to pay the principal and interest on the

existing real property purchase money mortgage or deed of trust, plus the costs of the refinancing, renewal, or extension; and

(7) Any lien authorized by this section against personal property registered with any county consisting of a motor vehicle or mobile home shall attach upon notation of the lien against the motor vehicle or mobile home certificate of title and shall have its priority established pursuant to the terms of section 60-110.

Sec. 4. That section 42-763, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-763. In ~~sections 42-762 to 42-7104~~ the Revised Uniform Reciprocal Enforcement of Support Act unless the context otherwise requires:

(a) Court means the district court of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.

(b) Duty of support means a duty of support whether imposed or impossible by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.

(c) Governor includes any person performing the functions of Governor or the executive authority of any state covered by ~~sections 42-762 to 42-7104~~ the act.

(d) Initiating state means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. Initiating court means the court in which a proceeding is commenced.

(e) Law includes both common and statutory law.

(f) Obligee means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.

(g) Obligor means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(h) Prosecuting attorney means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person and, except for purposes of sections 42-766 and 42-767, means authorized attorney as defined in section 43-512.

(i) Register means to file in the Registry of Foreign Support Orders.

(j) Registering court means any court of this state in which a support order of a rendering state is registered.

(k) Rendering state means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(l) Responding state means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. Responding court means the court in which the responsive proceeding is commenced.

(m) State includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(n) Support order means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

Sec. 5. That section 42-773, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-773. If this state is acting as an initiating state, the prosecuting attorney upon the request of the court shall represent the obligee state in any proceeding under ~~sections 42-762 to 42-7104~~ the Revised Uniform Reciprocal Enforcement of Support Act. If the prosecuting attorney neglects or refuses to represent the obligee state, the Attorney General may order him or her to comply with the request of the court or may undertake the representation.

Sec. 6. That section 42-779, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-779. (a) After the responding court receives copies of the petition, certificate and act from the initiating court, the clerk of the court shall docket the case and notify the prosecuting attorney of his or her action.

(b) The prosecuting attorney shall prosecute the case diligently. He or she shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or his or her property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

(c) If the prosecuting attorney neglects or refuses to represent the obligee state or a political subdivision, the Attorney General may order him or her to comply with the request of the court or may undertake the representation.

Sec. 7. That section 42-799, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-799. If this state is acting either as a rendering or a registering state, the prosecuting attorney upon the request of the court shall represent the obligee state or political subdivision in proceedings under this ~~Part part~~. If the prosecuting attorney neglects or refuses to represent the obligee state or political subdivision, the Attorney General may order him or her to comply with the request of the court or may undertake the representation.

Sec. 8. That section 43-512.12, Revised Statutes Supplement, 1992, be amended to read as follows:

43-512.12. Child support orders in cases in which a party has applied for services under Title IV-D of the Social Security Act, as amended, shall be reviewed by the Department of Social Services to determine whether to refer such orders to the county attorney or authorized attorney for filing of an application for modification. An order shall be reviewed by the department upon its own initiative or at the request of either parent when such review is required by Title IV-D of the Social Security Act, as amended. After review the department shall refer an order to a county attorney or authorized attorney when the verifiable financial information available to the department indicates:

(1) The present child support obligation varies from the Supreme Court child support guidelines pursuant to section 42-364.16 by more than the percentage, amount, or other criteria established by Supreme Court rule, and the variation is due to financial circumstances which have lasted at least ~~six~~ three months and can reasonably be expected to last for an additional six months; or

(2) ~~The availability of health~~ Health insurance is available to the obligor as provided in subsection (2) of section 42-369 and the children are not covered by health insurance other than the medical assistance program under sections 68-1018 to 68-1025.

An order shall not be reviewed by the department if it has not been three years since the present child support obligation was ordered. An order shall not be reviewed by the department more than once every ~~two years~~ three years, except that an order may be reviewed after one year if the department's determination after the previous review was not to refer to the county attorney or authorized attorney for filing of an application for modification because financial circumstances had not lasted or were not expected to last for the time periods established by subdivision (1) of this section.

Sec. 9. That section 43-512.14, Revised Statutes Supplement, 1992, be amended to read as follows:

43-512.14. Each ~~party parent~~ requesting review shall provide the financial information as provided in section 43-512.17 to the Department of Social Services upon request of the department. The ~~party parent~~ requesting review shall also provide an affidavit regarding the financial circumstances of the nonrequesting ~~party parent~~ upon the request of the department. Failure by ~~the a~~ nonrequesting ~~party parent~~ to provide adequate financial information shall create a rebuttable presumption that such ~~party's~~ parent's income has changed for purposes of section 43-512.12.

Referral of an order to a county attorney or authorized attorney under this section shall create a rebuttable presumption that there has been a material change in financial circumstances of one of the parents such that the child support obligation shall be increased at least ten percent if there is inadequate financial information regarding the noncustodial parent or that the child support obligation shall be decreased at least ten percent if there is inadequate financial information regarding the custodial parent. Such referral shall also be sufficient to rebut the

presumption specified in section 42-364.16, and the court, after notice and an opportunity to be heard, may order a decrease or an increase of at least ten percent in the child support obligation as provided in this section.

Sec. 10. That section 43-512.15, Revised Statutes Supplement, 1992, be amended to read as follows:

43-512.15. (1) The county attorney or authorized attorney, upon referral from the Department of Social Services, shall file an application for modification of a child support order unless the attorney determines in the exercise of independent professional judgment that:

(a) The variation from the Supreme Court child support guidelines pursuant to section 42-364.16 is based on material misrepresentation of fact concerning any financial information submitted to the attorney;

(b) The variation from the guidelines is due to a voluntary reduction in net monthly income; or

(c) When the amount of the order is considered with all the other undisputed facts in the case, no variation from the criteria set forth in subdivisions (1) and (2) of section 43-512.12 exists.

~~(2) The county attorney or authorized attorney shall file an application for modification of the child support order when the review results in a determination that an application for modification of the order should be filed.~~

~~(3)~~ (2) The application for modification of a child support order shall proceed in the original action establishing the support order, and the county attorney or authorized attorney shall represent the state in the proceedings.

~~(4)~~ (3) After an application for modification of a child support order is filed, any party may choose to be represented personally by private counsel. Any party who retains private counsel shall so notify the county attorney or authorized attorney in writing.

Sec. 11. That section 43-512.17, Revised Statutes Supplement, 1992, be amended to read as follows:

43-512.17. Any financial information provided to the Department of Social Services, the county attorney, or the authorized attorney by either parent for the purpose of facilitating a modification proceeding under sections 43-512.12 to 43-512.18 may be disclosed to the other parties to the case or to the district court. Financial information shall include the following:

(1) An affidavit of financial status provided by the party requesting review;

(2) An affidavit of financial status of the nonrequesting party provided by the nonrequesting party or by the requesting party at the request of the county attorney or authorized attorney; ~~and~~

(3) Supporting documentation such as state and federal income tax returns, paycheck stubs, W-2 forms, 1099 forms, bank statements, and other written evidence of financial status; ~~and~~

(4) Information relating to health insurance as provided in subsection (2) of section 42-369.

Sec. 12. That section 43-1708, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1708. Employee or payee shall mean any person who is compensated by or receives income from an employer or other payor, ~~for services performed~~, regardless of how such ~~compensation~~ income is denominated.

Sec. 13. That section 43-1711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1711. Income shall mean (1) 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; and dividends, and (2) any other income from whatever source derived.

Sec. 14. That section 43-1712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1712. Income withholding shall mean retention of an employee's or payee's income pursuant to sections 43-1720 to 43-1723.

Sec. 15. That section 43-1720, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1720. ~~Upon~~ If the Director of Social Services has previously sent a notice of assignment and opportunity for hearing on the same support order under section 48-647, the county attorney or authorized attorney shall certify the amount to be withheld from an obligor's disposable income pursuant to section 43-1722 and shall notify the obligor's employer or other payor pursuant to section 43-1723. If the director has not previously sent such notice, and except in cases in which the court has ordered income withholding pursuant to subsection (1) of section 43-1718.01, upon receiving certification pursuant to section 42-358 or notice of delinquent payments of medical support, the county attorney or authorized attorney shall send a notice by certified mail to the last-known address of the obligor stating:

(1) That an assignment of his or her income by means of income withholding will go into effect within fifteen days from the date the notice is sent;

(2) That the income withholding will continue to apply to any subsequent employer or other payor of the obligor;

(3) The amount of support the obligor owes;

(4) The amount of income that will be withheld; and

(5) That within the fifteen-day period, the obligor may request a hearing in the manner specified in the notice to contest a mistake of fact. For purposes of this subdivision, mistake of fact shall mean (a) an error in the amount of current or overdue support, (b) an error in the identity of the obligor, or (c) an error in the amount to be withheld as provided in section 43-1722.

Sec. 16. That section 43-1722, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1722. (1) If no hearing is requested by the obligor, (2)

~~or~~ if after a hearing the department determines that the assignment should go into effect, or (3) in cases in which the court has ordered income withholding pursuant to subsection (1) of section 43-1718.01, 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), and the amount withheld to satisfy an arrearage of child, spousal, or medical support when added to the amount withheld to pay current support and the fee provided for in section 43-1723 shall not exceed such maximum amount.

Sec. 17. That section 43-1723, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1723. ~~The~~ Except as otherwise provided in this section, the county attorney or authorized attorney shall notify the obligor's employer or other payor, 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~~ within the time determined by the department which shall comply with the requirements of Title IV-D of the Social Security Act, as amended. The notice shall specify the basis for the assignment of income and shall direct:

(1) That the employer or other payor 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, spousal, or medical 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 or other payor 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 or other payor 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 43-1722 or any court order;

(4) That the employer or other payor may assess an additional administrative fee from the ~~employee's~~ obligor's disposable ~~earnings~~ income not to exceed ~~ten dollars~~ two dollars and fifty cents in any calendar month as compensation for the employer's or other payor's reasonable cost incurred in complying with the notice;

(5) That the employer or other payor shall remit, within ten days of the date the obligor is paid and 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 and shall notify such clerk of the date such income was withheld;

(6) That the employer or other payor shall notify the

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

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

(8) That the employer or other payor 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;

(9) That an employer or other payor who fails to withhold and remit income of an obligor after receiving proper notice or who discriminates, demotes, disciplines, or terminates an employee or payee after receiving an income withholding notice shall be subject to the penalties prescribed in sections 43-1724 and 43-1725; and

(10) That if the employer or other payor receives more than one notice to withhold income of a single obligor and the amount of income available to be withheld pursuant to the limits specified in section 43-1722 is insufficient to satisfy the total support amount certified in the notices, the income available shall first be applied to current support. If the total amount of income available to be withheld is insufficient to satisfy the total amount of current support certified by the notices, the employer or other payor shall withhold for each notice the proportion that the amount of the current support certified in such notice bears to the total amount of current support certified in all notices received for the obligor. Any remaining income available to be withheld after current support is satisfied for all notices shall be applied to arrearages. If arrearages are certified in more than one notice, the employer or other payor shall withhold for each notice the proportion that the amount of the arrearage certified in such notice bears to the total amount of arrearage certified in all notices received for the obligor.

Compliance with the order by the employer or other payor shall operate as a discharge of the employer's or other payor's liability to the obligor as to the portion of the obligor's income withheld. The county attorney or authorized attorney need not notify the Commissioner of Labor as a payor if the commissioner is withholding for child support from the obligor under section 48-647 for the same support order.

Sec. 18. That section 43-1724, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1724. Any employer or other payor who fails to withhold and remit any income of an obligor employed by him or her receiving income from the employer or other payor, after proper notice as provided in section 43-1723, 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. 19. That section 43-1725, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1725. An employer or other payor 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 or payee, (3) disciplinary action against an employee or payee, or (4) termination of an employee or payee.

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 or other payor who violates this section may be required to make full restitution to the aggrieved employee or payee, including reinstatement and backpay.

Sec. 20. That section 43-1726, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1726. When an obligor ceases employment with or is no longer entitled to income from an employer or other payor, the notice to withhold income shall not cease to operate against the obligor and income withholding shall continue to apply to any subsequent employment or income of the obligor. The notice to withhold income shall terminate with respect to the employer or other payor without any court action or action by the county attorney or authorized attorney thirty days after the obligor ceases employment with or is no longer entitled to income from such employer or other payor, except that a notice to withhold income shall not terminate with respect to unemployment compensation benefits being withheld by the Commissioner of Labor pursuant to section 48-647. The employer or other payor shall return a copy of the notice to withhold income to the county attorney or authorized attorney, indicate that the employment or obligation to pay income 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 or obligation to pay income has ceased. A notice to withhold income shall also terminate when the child, spousal, or medical support obligation terminates and all past-due support has been paid, in which case the county attorney or authorized attorney shall notify the employer or other payor to cease withholding income.

Sec. 21. That section 43-1728, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1728. (1) ~~On behalf of any client for whom~~ In any case in which 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, spousal, or medical 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 43-1728 to 43-1742.

Sec. 22. That section 43-1733, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1733. Within Unless a foreign support order requires income withholding regardless of whether or not payment pursuant to such order is in arrears, within ten days of after the date a foreign support order is entered pursuant to section 43-1729; the county attorney or authorized attorney shall serve upon the obligor notice of proposed income withholding in accordance with section 43-1720. 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 43-1734 to 43-1737.

Sec. 23. That section 43-1737, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1737. If the obligor does not request a hearing in the time provided or if the foreign support order provides for income withholding regardless of whether or not payment pursuant to such order is in arrears, the income withholding notice shall take effect and the obligor's employer or other payor shall be notified pursuant to section 43-1723. 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 or other payor in the same manner as the notice provided for in section 43-1723.

Sec. 24. That section 48-149, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 118, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

48-149. No proceeds or interest thereon from payments or lump-sum settlements under the Nebraska Workers' Compensation Act or law of another state which provides compensation and benefits for employees sustaining job-related injuries shall be assignable, subject to attachment or garnishment, or held liable in any way for any debts, except (1) as provided in section 48-108 and (2) payments under the act or any law of another state which provides compensation and benefits for employees sustaining job-related injuries shall be subject to income

withholding under the Income Withholding for Child Support Act and garnishment by a county attorney or authorized attorney pursuant to section 43-512.03 or garnishment for child support as defined in section 43-1705 by an obligee as defined in section 43-1713.

Sec. 25. That section 48-161, Revised Statutes Supplement, 1992, be amended to read as follows:

48-161. All disputed claims for workers' compensation shall be submitted to the Nebraska Workers' Compensation Court for a finding, award, order, or judgment. Such compensation court shall have jurisdiction to decide any issue ancillary to the resolution of an employee's right to workers' compensation benefits, except that jurisdiction with respect to income withholding pursuant to the Income Withholding for Child Support Act shall be as provided in such act and jurisdiction with respect to garnishment for support shall be as provided in sections 25-1009 to 25-1056 and 43-512.09.

Sec. 26. That section 48-647, Revised Statutes Supplement, 1992, 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 support obligations as defined under subdivision ~~(g)~~ (h) of this subsection. If such individual discloses that he or she owes child 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 support obligations:

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

(ii) The amount, if any, determined pursuant to an agreement between the Director of Social Services and such individual owing the child support obligations to have a specified amount withheld and such agreement being submitted to the commissioner, unless subdivision (iii) of this subdivision 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)~~ (2)(f) of this ~~subsection~~ section, 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) or (g) 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 support obligations.

(e) For purposes of subdivisions (a) through (d) and (g) 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 subsection 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 support obligations being enforced by the Department of Social Services.

(g) The Director of Social Services and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the director of the information listed in section 43-1719 with respect to individuals determined to be eligible for unemployment compensation during such period;

(ii) Unless the county attorney or authorized attorney has sent a notice on the same support order under section 43-1720, upon the notification required by subdivision (2)(g)(i) of this section, the director shall send notice to any such individual who owes child support obligations and who is subject to income withholding pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall be sent by certified mail to the last-known address of the individual and shall state the same information as required under section 43-1720;

(iii)(A) If the support obligation is not based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the Department of Social Services shall hold a hearing within fifteen days of the date of receipt of the request. The hearing shall be in accordance with the Administrative Procedure Act. The assignment

shall be held in abeyance pending the outcome of the hearing. The department shall notify the individual and the commissioner of its decision within fifteen days of the date the hearing is held; and

(B) If the support obligation is based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the county attorney or authorized attorney shall apply the procedures described in sections 43-1732 to 43-1742;

(iv)(A) If no hearing is requested by the individual under this subsection or pursuant to a notice sent under section 43-1720, (B) if after a hearing under this subsection or section 43-1721 the department determines that the assignment should go into effect, or (C) in cases in which the court has ordered income withholding pursuant to subsection (1) of section 43-1718.01, the director shall certify to the commissioner the amount to be withheld from the individual's unemployment compensation. 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), and the amount withheld to satisfy an arrearage of child support when added to the amount withheld to pay current support shall not exceed such maximum amount;

(v) The collection system shall comply with the requirements of Title III and Title IV-D of the Social Security Act, as amended;

(vi) The collection system shall be in addition to and not in substitution for or derogation of any other available remedy; and

(vii) The director and the commissioner shall adopt and promulgate rules and regulations to carry out subdivision (2)(g) of this section.

(h) For purposes of this subsection, the term child support obligations shall include 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.

(i) For purposes of this subsection, 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. For purposes of this subdivision, the Director of Social Services shall be deemed an authorized official pursuant to order of 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 support.

Sec. 27. That original sections 42-364.13, 42-763, 42-773, 42-779, 42-799, 43-1711, 43-1712, and 43-1733, Reissue Revised Statutes

of Nebraska, 1943, sections 42-368, 42-371, 43-512.12, 43-512.14, 43-512.15, 43-512.17, 43-1708, 43-1720, 43-1722 to 43-1726, 43-1728, 43-1737, 48-161, and 48-647, Revised Statutes Supplement, 1992, and section 48-149, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 118, Ninety-third Legislature, First Session, 1993, are repealed.