

LEGISLATIVE BILL 393

Approved by the Governor June 9, 1997

Introduced by Hillman, 48; Brown, 6; Kiel, 9; McKenzie, 34; C. Peterson, 35; Suttle, 10

AN ACT relating to the Protection from Domestic Abuse Act; to amend sections 42-924.01 and 42-924.02, Reissue Revised Statutes of Nebraska; to change provisions relating to payment of fees and costs and forms; to harmonize provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 42-924.01, Reissue Revised Statutes of Nebraska, is amended to read:

42-924.01. If an applicant files an affidavit with his or her application and affidavit for a protection order stating that he or she does not have the funds available to pay the cost of filing and service, the application and affidavit for a protection order shall be filed and served without payment of costs. If an application and affidavit for a protection order are filed and served without payment of costs, the court shall determine at the hearing if the applicant is able to pay such costs. In determining whether the applicant is able to pay such costs, the income and financial status of the alleged abuser shall not be considered. If the court finds that the applicant is able to pay such costs, the court may order the applicant or alleged abuser to pay the costs of filing and service. If there is any conflict between this section and sections 25-2301 to 25-2310, this section shall govern. Fees to cover costs associated with the filing, issuance, or service of a protection order seeking only the relief provided by the Protection from Domestic Abuse Act shall not be charged, except that a court may assess such fees and costs if the court finds, by clear and convincing evidence, that the statements contained in the application were false and that the protection order was sought in bad faith.

At the final hearing, a court may assess costs associated with the filing, issuance, or service of a protection order seeking only the relief provided by the Protection from Domestic Abuse Act against the adverse party.

Sec. 2. Section 42-924.02, Reissue Revised Statutes of Nebraska, is amended to read:

42-924.02. The clerk of the district court shall make available standard application and affidavit forms for a protection order and waiver of costs pursuant to section 42-924.01 with instructions for completion to be used by an applicant. The clerk and his or her employees shall not provide assistance in completing the forms. The department State Court Administrator shall adopt and promulgate the standard application and affidavit forms provided for in this section as well as the standard temporary and final protection order forms and provide a copy of such forms to all clerks of the district courts in this state. These standard temporary and final protection order forms shall be the only such forms used in this state.

Sec. 3. Original sections 42-924.01 and 42-924.02, Reissue Revised Statutes of Nebraska, are repealed.