

LEGISLATIVE BILL 924

Approved by the Governor April 07, 2016

Introduced by Kolterman, 24.

A BILL FOR AN ACT relating to the Income Withholding for Child Support Act; to amend section 43-1718.01, Reissue Revised Statutes of Nebraska; to provide for an additional withholding procedure for certain payments; and to repeal the original section.

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

Section 1. Section 43-1718.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-1718.01 (1) In any case in which services are provided under Title IV-D of the federal Social Security Act, as amended, and a support order has been issued or modified on or after September 6, 1991, the obligor's income shall be subject to income withholding regardless of whether or not payments pursuant to such order are in arrears, and the court shall require such income withholding in its order unless:

(a) One of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding; or

(b) A written agreement between the parties, including the state if there is an assignment of support pursuant to section 43-512.07, providing an alternative arrangement is incorporated into the support order.

(2) In any case in which services are provided under Title IV-D of the federal Social Security Act, as amended, the income of an obligor not subject to withholding pursuant to subsection (1) of this section shall become subject to income withholding:

(a) 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; or

(b) Regardless of whether payments are in arrears, on the earliest of (i) the date as of which the obligor requests that income withholding begin, (ii) the date as of which the obligee requests that income withholding begin if the department determines that such request should be approved, or (iii) any earlier date after September 6, 1991, which the department selects.

The obligor shall receive notice of income withholding and his or her right to a hearing pursuant to section 43-1720 when his or her income is withheld pursuant to subdivision (b)(ii) or (b)(iii) of this subsection.

(3) In any case in which services are provided under Title IV-D of the federal Social Security Act, as amended, and a support order has been issued or modified on or after September 6, 1991, the noncustodial parent may pay his or her support through monthly automatic financial institution withdrawal through the State Disbursement Unit if the following conditions are met:

(a) The noncustodial parent, the custodial parent, and the department sign a written, notarized agreement;

(b) The noncustodial parent is current and not in arrears on his or her support payments at the time of the written, notarized agreement;

(c) The amount automatically withdrawn from the noncustodial parent's financial institution is at least the amount of the court-ordered monthly support obligation; and

(d) The automatic financial institution withdrawal occurs on a regular, consistent basis each month.

Any partial payment or missed payment shall subject the noncustodial parent to mandatory income withholding as provided in the court order.

~~(4)~~ 3) No obligor whose child support payments are automatically withheld from his or her paycheck shall be regarded or reported as being delinquent or in arrears if (a) any delinquency or arrearage is solely caused by a disparity between the schedule of the obligor's regular pay dates and the scheduled date the child support is due, (b) the total amount of child support to be withheld from the paychecks of the obligor and the amount ordered by the support order are the same on an annual basis, and (c) the automatic deductions for child support are continuous and occurring.

4) The department shall adopt and promulgate rules and regulations necessary to carry out this section.

Sec. 2. Original section 43-1718.01, Reissue Revised Statutes of Nebraska, is repealed.