

## LEGISLATIVE BILL 511

Approved by the Governor April 22, 1983

Introduced by Beutler, 28

AN ACT to amend section 43-666, Revised Statutes Supplement, 1982, relating to children; to change provisions relating to enforcement and appeal of certain orders; and to repeal the original section.

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

Section 1. That section 43-666, Revised Statutes Supplement, 1982, be amended to read as follows:

43-666. (1) Any party aggrieved by the findings, conclusions, or final decision and order of the hearing officer is entitled to judicial review under sections 84-917 to 84-919. Orders of hearing officers are enforceable in appropriate proceedings in the courts of this state. this section. Any party of record also may seek enforcement of the final decision and order of the hearing officer pursuant to this section.

(2) Proceedings for judicial review shall be instituted by filing a petition in the district court of the county where the main administrative offices of the school district are located within thirty days after service of the final decision and order on the party seeking such review. All parties of record shall be made parties to the proceedings. The court, in its discretion, may permit other interested parties to intervene.

(3) The filing of a petition for judicial review shall operate to stay the enforcement of the final decision and order of the hearing officer. While judicial proceedings are pending and unless the school district and the parent or guardian otherwise agree, the child shall remain in his or her current educational placement or if applying for initial admission to a public school such child shall, with the consent of the parent or guardian, be placed in the public school program until all such proceedings have been completed. If the health or safety of the child or of other persons would be endangered by delaying a change in assignment,

the school district may make such change without prejudice to the rights of any party.

(4) Within fifteen days after receiving notification that a petition for judicial review has been filed, or if good cause is shown, within such further time as the court may allow, the State Department of Education shall prepare and transmit to the court a certified transcript of the proceedings before the hearing officer. Any deposition or exhibit introduced before the hearing officer shall, upon demand of the party who introduced such deposition or exhibit, be returned to such party for use in the review proceedings.

(5) Judicial review shall be conducted by the court without a jury. The court shall receive the records of the administrative proceedings, hear additional evidence at the request of a party, base its decision on the preponderance of the evidence, and grant such relief as the court determines is appropriate.

(6) An aggrieved party may secure a review of any final judgment of the district court under this section by appeal to the Supreme Court. Such appeal shall be taken in the manner provided by law for appeals to the Supreme Court in civil cases and shall be heard de novo on the record.

(7) When no petition for judicial review or other civil action is filed within thirty days after service of the final decision and order on all of the parties, the hearing officer's final decision and order shall become effective. Proceedings for enforcement of a hearing officer's final decision and order shall be instituted by filing a petition for appropriate relief in the district court of the county where the main administrative offices of the school district are located within one year after the date of the hearing officer's final decision and order.

Sec. 2. That original section 43-666, Revised Statutes Supplement, 1982, is repealed.