

LEGISLATIVE BILL 435

Approved by the Governor April 15, 1993

Introduced by Horgan, 4

AN ACT relating to child support enforcement; to amend sections 42-369, 43-2,113, and 43-512.07, Revised Statutes Supplement, 1992; to change provisions relating to assignments of support to the Department of Social Services; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 42-369, Revised Statutes Supplement, 1992, be amended to read as follows:

42-369. (1) All orders or judgments for temporary or permanent support payments, alimony, or modification of ~~the same support payments or alimony~~ shall direct the payment of such sums to be made commencing on the first day of each month to the clerk of the district court for the use of the persons for whom the ~~same support payments or alimony~~ have been awarded. The court may order such payment to be in cash or guaranteed funds.

(2) If the person against whom an order or judgment for child support is entered or the custodial parent or guardian has health insurance available to him or her through an employer or organization which may extend to cover any children affected by the order or decree, the court shall require the option to be exercised by either party for additional coverage which favors the best interests of the child or children affected by the order or judgment unless the parties have otherwise stipulated in writing or to the court.

(3) Such an order or decree for support may include the providing of necessary shelter, food, clothing, care, medical support as defined in section 43-512, medical attention, expenses of confinement, education expenses, funeral expenses, and any other expense the court may deem reasonable and necessary.

(4) Orders and judgments for temporary or permanent support or alimony shall be filed with the clerk and have the force and effect of judgments when entered, and the clerk shall disburse all payments received as directed by the court ~~and as provided in section 43-512.07.~~ Records shall be kept of all funds received and disbursed by the clerk; ~~which records~~ and shall be open to inspection by the parties and their attorneys.

(5) Unless otherwise specified by the court, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under section 43-512.07.

Sec. 2. That section 43-2,113, Revised Statutes

Supplement, 1992, be amended to read as follows:

43-2,113. ~~Where~~ (1) In counties where a separate juvenile court is established, the county board of the county shall provide suitable rooms and offices for the accommodation of the judge ~~thereof~~ of the separate juvenile court and the officers and employees appointed by such judge or by the probation administrator pursuant to subsection (4) of section 29-2253. Such separate juvenile court; ~~and the judge, thereof;~~ and the officers, and employees of such court shall have the same and exclusive jurisdiction, powers, and duties that are prescribed in the Nebraska Juvenile Code, concurrent jurisdiction under section 83-223, and such other jurisdiction, powers, and duties as may hereafter be specifically provided by law.

(2) A juvenile court created in a separate juvenile court judicial district or a county court sitting as a juvenile court in all other counties shall have and exercise jurisdiction within such juvenile court judicial district or county court judicial district with the district court in all matters arising under Chapter 42, article 3, when the care, support, custody, or control of minor children under the age of eighteen years is involved. Such cases shall be filed in the district court and may, with the consent of the juvenile judge, be transferred to the docket of the separate juvenile court or county court.

(3) All orders issued by such a separate juvenile court or a county court which provide for child support or spousal support as defined in section 42-347 shall be governed by sections 42-347 to 42-379 and 43-290 relating to such support. Certified copies of such orders shall be filed by the clerk of the separate juvenile or county court with the clerk of the district court who shall maintain a record as provided in subdivision (4) of section 42-364. There shall be no fee charged for the filing of such certified copies.

Sec. 3. That section 43-512.07, Revised Statutes Supplement, 1992, be amended to read as follows:

43-512.07. ~~(1) The application for and acceptance of an aid to dependent children payment by a parent, another relative, or a custodian. Any action, payment, aid, or assistance listed in subdivisions (a) through (c) of this subsection shall constitute an assignment by operation of law to the Department of Social Services of any right to spousal or medical support when ordered by the court and to child support whether or not ordered by the court which the a recipient may have in his or her own behalf or on behalf of any other person for whom the an applicant receives such payments, aid, or assistance, including any accrued arrearages as of the time of the assignment;~~

(a) Application for and acceptance of one or more aid to dependent children payments by a parent, another relative, or a custodian;

(b) Receipt of aid by or on behalf of any dependent child as defined in section 43-504; or

(c) Receipt of aid from child welfare funds.

The department shall be entitled to retain such child, spousal, or other support up to the amount of aid to dependent children

~~paid payments, aid, or assistance provided~~ to the a recipient. For purposes of this section, the right to receive current and past-due child support shall belong to the child and the assignment shall be effective as to any such support even if the ~~payee of aid to dependent children recipient of the payments, aid, or assistance~~ is not the same as the payee of court-ordered support.

(2) ~~Upon notice to~~ After notification of the clerk of the district court receiving the child, spousal, or other support payments made pursuant to a court order that the person for whom such support is ordered is a recipient of ~~public payments, aid, or assistance listed in subsection (1) of this section~~, the department shall also ~~send a copy of the~~ give notice to the payee named in the court order at his or her last-known address.

(3) Upon ~~receipt of a notice written or other notification~~ from the department or ~~from~~ another state of such assignment of child, spousal, or other support payments, the clerk of the district court shall transmit the support payments received to the department or the other state without the requirement of a subsequent order by the court. The clerk of the district court shall continue to transmit the support payments for as long as the ~~aid to dependent children payment payments, aid, or assistance listed in subsection (1) of this section~~ continues.

(4) Any court-ordered child, spousal, or other support remaining unpaid during the period of the assignment shall constitute a debt and a continuing assignment at the termination of ~~aid to dependent children payments, aid, or assistance listed in subsection (1) of this section~~, collectible by the department or other state as reimbursement for ~~aid to dependent children such payments, aid, or assistance~~. The continuing assignment shall only apply to support payments made during a calendar period which exceed the specific amount of support ordered for that period. When ~~aid to dependent children payments, aid, or assistance listed in subsection (1) of this section~~ have ceased and upon notice by the department or the other state, the clerk of the district court shall continue to transmit to the department or the other state any support payments received on arrearages in excess of the amount of support ordered for that specific calendar period until notified by the department or the other state that the debt has been paid in full, except that any amount of support arrearages that has accrued or accrues after termination of ~~aid to dependent children payments, aid, or assistance listed in subsection (1) of this section~~ shall be paid first by the clerk to the person to whom support is due before any reimbursement is made to the department or the other state.

Sec. 4. That original sections 42-369, 43-2,113, and 43-512.07, Revised Statutes Supplement, 1992, are repealed.