

LEGISLATIVE BILL 573

Approved by the Governor April 8, 1987

Introduced by Judiciary Committee, Chizek, 31,
Chairperson; Chambers, 11; Pirsch, 10;
Korshoj, 16; Conway, 17; Nelson, 35;
Ashford, 6

AN ACT relating to child support; to amend sections 42-347, 43-512, and 43-1704, Revised Statutes Supplement, 1986; to redefine the term authorized attorney; to harmonize provisions; to eliminate certain powers and duties of the Attorney General; to eliminate a cash fund; and to repeal the original sections, and also section 84-218, Revised Statutes Supplement, 1986.

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

Section 1. That section 42-347, Revised Statutes Supplement, 1986, be amended to read as follows:

42-347. As used in sections 42-347 to 42-379, unless the context otherwise requires:

(1) Authorized attorney shall mean an attorney (a) employed by the county subject to the approval of the county board, (b) ~~until July 1, 1986,~~ employed by the Department of Social Services, ~~(c) on or after July 1, 1986, employed or appointed by the Attorney General's office,~~ or ~~(d)~~ (c) appointed by the court, who is authorized to investigate and prosecute child and spousal support cases;

(2) Dissolution of marriage shall mean the termination of a marriage by decree of a court of competent jurisdiction upon a finding that the marriage is irretrievably broken. After July 6, 1972, the term dissolution of marriage shall be considered synonymous with divorce, and whenever the term divorce appears in the statutes it shall mean dissolution of marriage pursuant to sections 42-347 to 42-379;

(3) Legal separation shall mean a decree of a court of competent jurisdiction providing that two persons who have been legally married shall thereafter live separate and apart and providing for any necessary adjustment of property, support, and custody rights between the parties, but not dissolving the marriage; and

(4) Spousal support, when used in the context of income withholding or any provisions of law which might lead to income withholding, shall mean alimony or maintenance support for a spouse or former spouse when ordered as a part of an order, decree, or judgment which provides for child support and the child and spouse or former spouse are living in the same household.

Sec. 2. That section 43-512, Revised Statutes Supplement, 1986, be amended to read as follows:

43-512. (1) Any dependent child, as defined in section 43-504, or any relative of such dependent child may file with the Department of Social Services a written application for financial assistance for such child on forms furnished by the department.

(2) The department, through its agents and employees, shall thereupon make such investigation as it deems necessary or as may be required by the county attorney. If the investigation or the application for financial assistance discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the finding of such investigation and a copy of the application shall immediately be filed with the county attorney or authorized attorney.

(3) The department shall make a finding as to whether the application referred to in subsection (1) of this section shall be allowed or denied. If it is found that the application should be allowed, the department shall further find the amount of monthly assistance which should be paid with reference to such dependent child. Except as may be otherwise provided, payments shall be made by state warrant, and the amount of payments shall not exceed two hundred ninety-three dollars per month where there is but one dependent child and one eligible caretaker relative in any home, plus an additional seventy-one dollars per month on behalf of each additional eligible person. No payments shall be made for amounts totaling less than ten dollars per month, except in the recovery of overpayments.

(4) The amount which shall be paid as assistance with respect to a dependent child shall be based in each case upon the conditions disclosed by the investigation made by the department. An appeal shall lie from the finding made in each case to the Director of Social Services. Such appeal may be taken by any taxpayer or by any relative of such child. Proceedings for and upon appeal shall be conducted in the same manner as provided for in section 68-1016.

(5) For the purpose of preventing dependency,

the Director of Social Services is authorized to adopt and promulgate rules and regulations providing for services to former and potential recipients of aid to dependent children and medical assistance benefits. The director is further authorized to adopt and promulgate rules and regulations establishing programs and cooperating with programs of work incentive, work experience, job training, and education. The provisions of this section with regard to determination of need, amount of payment, maximum payment, and method of payment shall not be applicable to families or children included in such programs.

(6) For purposes of sections 43-512 to 43-512.10, unless the context otherwise requires:

(a) Authorized attorney shall mean an attorney employed by the county subject to the approval of the county board, ~~until July 1, 1986,~~ employed by the Department of Social Services, ~~on or after July 1, 1986, employed or appointed by the Attorney General's office,~~ or appointed by the court, who is authorized to investigate and prosecute child and spousal support cases; and

(b) Spousal support shall be defined as provided in section 42-347.

Sec. 3. That section 43-1704, Revised Statutes Supplement, 1986, be amended to read as follows:

43-1704. Authorized attorney shall mean an attorney (1) employed by the county subject to the approval of the county board, (2) ~~until July 1, 1986,~~ employed by the Department of Social Services, (3) ~~on or after July 1, 1986, employed or appointed by the Attorney General's office,~~ or (4) (3) appointed by the court, who is authorized to investigate and prosecute child and spousal support cases.

Sec. 4. That original sections 42-347, 43-512, and 43-1704, Revised Statutes Supplement, 1986, and also section 84-218, Revised Statutes Supplement, 1986, are repealed.