

## LEGISLATIVE BILL 500

Approved by the Governor June 9, 1993

Introduced by Lindsay, 9; Landis, 46

AN ACT relating to families; to amend sections 43-1415 and 43-1729, Reissue Revised Statutes of Nebraska, 1943, and sections 42-371, 43-1406, and 43-1411, Revised Statutes Supplement, 1992; to adopt the Uniform Interstate Family Support Act; to harmonize provisions; to eliminate the Revised Uniform Reciprocal Enforcement of Support Act; to provide for actions brought under former law; to provide for subordination of liens of certain judgments as prescribed; to provide for acknowledgments of paternity in paternity actions; to provide for access to records and for emergency decisions by parents as prescribed; to provide operative dates; to provide severability; and to repeal the original sections, and also sections 42-762, 42-764 to 42-772, 42-774 to 42-778, 42-780 to 42-791, 42-794 to 42-798, 42-7,100, and 42-7,102 to 42-7,104, Reissue Revised Statutes of Nebraska, 1943, sections 42-792, 42-793, and 42-7,101, Revised Statutes Supplement, 1992, and sections 42-763, 42-773, 42-779, and 42-799, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 4, 5, 6, and 7, respectively, Legislative Bill 523, Ninety-third Legislature, First Session, 1993.

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

Section 1. Sections 1 to 51 of this act shall be known and may be cited as the Uniform Interstate Family Support Act.

Sec. 2. In the Uniform Interstate Family Support Act:

(1) Child means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) Child support order means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) Duty of support means an obligation imposed or impossible by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) Home state means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary

absence of any of them is counted as part of the six-month or other period.

(5) Income includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) Income withholding order means an order or other legal process directed to an obligor's employer or other payor, as defined by the Income Withholding for Child Support Act or sections 42-347 to 42-380, to withhold support from the income of the obligor.

(7) Initiating state means a state in which a proceeding under the Uniform Interstate Family Support Act or a law substantially similar to the act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.

(8) Initiating tribunal means the authorized tribunal in an initiating state.

(9) Issuing state means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) Issuing tribunal means the tribunal that issues a support order or renders a judgment determining parentage.

(11) Law includes decisional and statutory law and rules and regulations having the force of law.

(12) Obligee means:

(i) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) An individual seeking a judgment determining parentage of the individual's child.

(13) Obligor means an individual, or the estate of a decedent:

(i) Who owes or is alleged to owe a duty of support;

(ii) Who is alleged but has not been adjudicated to be a parent of a child; or

(iii) Who is liable under a support order.

(14) Register means to record or file a support order or judgment determining parentage in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically.

(15) Registering tribunal means a tribunal in which a support order is registered.

(16) Responding state means a state to which a proceeding is forwarded under the Uniform Interstate Family Support Act or a law substantially similar to the act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support

Act.

(17) Responding tribunal means the authorized tribunal in a responding state.

(18) Spousal support order means a support order for a spouse or former spouse of the obligor.

(19) State means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term state includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under the Uniform Interstate Family Support Act.

(20) Support enforcement agency means a public official or agency authorized to seek:

(i) Enforcement of support orders or laws relating to the duty of support;

(ii) Establishment or modification of child support;

(iii) Determination of parentage; or

(iv) To locate obligors or their assets.

(21) Support order means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) Tribunal means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 3. The district court is the tribunal of this state.

Sec. 4. Remedies provided by the Uniform Interstate Family Support Act are cumulative and do not affect the availability of remedies under other law.

Sec. 5. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with notice within this state;

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) The individual asserted parentage in this state pursuant

to section 43-104.02 with the Department of Social Services or pursuant to section 71-628, 71-640.01, or 71-640.02 with the Department of Health; or

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.\*

Sec. 6. A tribunal of this state exercising personal jurisdiction over a nonresident under section 5 of this act may apply section 29 of this act to receive evidence from another state, and section 31 of this act to obtain discovery through a tribunal of another state. In all other respects, sections 14 to 48 of this act do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by the Uniform Interstate Family Support Act.

Sec. 7. Under the Uniform Interstate Family Support Act, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

Sec. 8. (a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state is the home state of the child.

Sec. 9. (a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to the

Uniform Interstate Family Support Act.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to the act, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to the act.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 10. (a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 29 of this act to receive evidence from another state and section 31 of this act to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

Sec. 11. (a) If a proceeding is brought under the Uniform Interstate Family Support Act, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under the act, the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support

orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under the act, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under the act, the tribunal of this state may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under subsection (a) of this section is the tribunal having continuing, exclusive jurisdiction.

Sec. 12. In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

Sec. 13. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

Sec. 14. (a) Except as otherwise provided in the Uniform Interstate Family Support Act, sections 14 to 32 of this act apply to all proceedings under the act.

(b) The act provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to section 33 of this act;

(2) enforcement of a support order and income withholding order of another state without registration pursuant to sections 34 and 35 of this act;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to sections 36 to 47 of this act;

(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to sections 7 to 10 of this act;

(5) registration of an order for child support of another state for modification pursuant to sections 36 to 47 of this act;

(6) determination of parentage pursuant to section 48 of this act; and

(7) assertion of jurisdiction over nonresidents pursuant to sections 5 and 6 of this act.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under the act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the

respondent.

Sec. 15. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Sec. 16. Except as otherwise provided by the Uniform Interstate Family Support Act, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the support guidelines established under section 42-364.16.

Sec. 17. Upon the filing of a petition authorized by the Uniform Interstate Family Support Act, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

Sec. 18. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection (c) of section 14 of this act, it shall cause the petition or pleading to be filed and notify the petitioner by first-class mail where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a capias for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the capias in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by

specified methods;

(11) award reasonable attorney's fees and other fees and costs;

(12) issue an order releasing or subordinating a lien pursuant to section 42-371; and

(13) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under the Uniform Interstate Family Support Act, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under the act upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under the act, the tribunal shall send a copy of the order by first-class mail to the petitioner and the respondent and to the initiating tribunal, if any.

Sec. 19. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first-class mail where and when the pleading was sent.

Sec. 20. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under the Uniform Interstate Family Support Act.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first-class mail to the petitioner;

(5) within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first-class mail to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) The act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.



Sec. 21. If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under the Uniform Interstate Family Support Act or may provide those services directly to the individual.

Sec. 22. An individual may employ private counsel to represent the individual in proceedings authorized by the Uniform Interstate Family Support Act.

Sec. 23. (a) The Department of Social Services is the state information agency under the Uniform Interstate Family Support Act.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under the act and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under the act received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 24. (a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under the Uniform Interstate Family Support Act must verify the petition. Unless otherwise ordered under section 25 of this act, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The accompanying documents may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 25. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order

so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under the Uniform Interstate Family Support Act.

Sec. 26. (a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 36 to 47 of this act, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 27. (a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under the Uniform Interstate Family Support Act.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under the act committed by a party while present in this state to participate in the proceeding.

Sec. 28. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under the Uniform Interstate Family Support Act.

Sec. 29. (a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted

in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under the Uniform Interstate Family Support Act, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under the act.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under the act.

Sec. 30. A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

Sec. 31. A tribunal of this state may:

(1) request a tribunal of another state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

Sec. 32. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

Sec. 33. (a) If a support order entitled to recognition under the Uniform Interstate Family Support Act has not been issued, a responding tribunal of this state may issue a support order if:

(1) the individual seeking the order resides in another state;

or

(2) the support enforcement agency seeking the order is

located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 18 of this act.

Sec. 34. (a) An income withholding order issued in another state may be sent by first-class mail to the person or entity defined as the obligor's employer under the Income Withholding for Child Support Act or sections 42-347 to 42-380 without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

(1) treat an income withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;

(2) immediately provide a copy of the order to the obligor; and

(3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section 39 of this act applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(1) the person or agency designated to receive payments in the income withholding order; or

(2) if no person or agency is designated, the obligee.

Sec. 35. (a) A party seeking to enforce a support order or an income withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to the Uniform Interstate Family Support Act.

Sec. 36. A support order or an income withholding order

issued by a tribunal of another state may be registered in this state for enforcement.

Sec. 37. (a) A support order or an income withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer or other payor and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

Sec. 38. (a) A support order or income withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in sections 36 to 47 of this act, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Sec. 39. (a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

Sec. 40. (a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first-class, certified, or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the

registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the Income Withholding for Child Support Act or sections 42-347 to 42-380.

Sec. 41. (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 42 of this act.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first-class mail of the date, time, and place of the hearing.

Sec. 42. (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this state to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under section 39 of this act precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial

defense under subsection (a) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under such subsection to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Sec. 43. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Sec. 44. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 36 to 39 of this act if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Sec. 45. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 46 of this act have been met.

Sec. 46. (a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal

of continuing, exclusive jurisdiction.

(e) Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

Sec. 47. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to the Uniform Interstate Family Support Act and, upon request, except as otherwise provided in the act, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Sec. 48. (a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under the Uniform Interstate Family Support Act or a law substantially similar to the act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply sections 43-1401 to 43-1418, and the rules of this state on choice of law.

Sec. 49. (a) For purposes of sections 49 and 50 of this act, Governor includes an individual performing the functions of Governor or the executive authority of a state covered by the Uniform Interstate Family Support Act.

(b) The Governor of this state may:

(1) demand that the Governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the Governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with the act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 50. (a) Before making demand that the Governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the Governor of this state may require a prosecutor of this state to demonstrate that at least



sixty days previously the obligee had initiated proceedings for support pursuant to the Uniform Interstate Family Support Act or that the proceeding would be of no avail.

(b) If, under the Uniform Interstate Family Support Act or a law substantially similar to the act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the Governor of another state makes a demand that the Governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

Sec. 51. The Uniform Interstate Family Support Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the act among states enacting it.

Sec. 52. That section 42-371, Revised Statutes Supplement, 1992, be amended to read as follows:

42-371. Under the Uniform Interstate Family Support Act and sections 42-347, 42-379, 43-290, 43-512 to 43-512.10, and 43-1401 to 43-1418:

(1) All judgments and orders for payment of money shall be liens, as in other actions, upon real property and any personal property registered with any county office and may be enforced or collected by execution and the means authorized for collection of money judgments. The judgment creditor may execute (a) a partial or total release of the judgment or (b) a document subordinating the lien of the judgment to any other lien, generally or on specific real or personal property. Release of judgments a judgment for child support or spousal support or subordination of a lien of a judgment for child support or spousal support must be approved by the court which rendered the judgment unless all such payments are current, in which case a release or subordination document executed by the judgment creditor shall be sufficient to remove or subordinate the lien. A properly executed, notarized release or subordination document, explicitly reciting that all child support payments or spousal support payments are current, shall be prima facie evidence that such payments are in fact current. The judgment debtor may petition the court which rendered the original judgment for an order releasing or subordinating the lien as to specific real or personal property. The court

shall grant such order upon a showing by the judgment debtor that sufficient real or personal property or property interests ~~shall will~~ remain subject to the lien or will maintain priority over other liens sufficient to cover all support due and which may become due;

(2) Child support and spousal support judgments shall cease to be liens on real or registered personal property ten years from the date (a) the youngest child becomes of age or dies or (b) the most recent execution was issued to collect the judgment, whichever is later, and such lien shall not be reinstated;

(3) Alimony and property settlement award judgments, if not covered by subdivision (2) of this section, shall cease to be a lien on real or registered personal property ten years from the date (a) the judgment was entered, (b) the most recent payment was made, or (c) the most recent execution was issued to collect the judgment, whichever is latest, and such lien shall not be reinstated;

(4) Whenever a judgment creditor refuses to execute a release of the judgment or subordination of a lien as provided in this section, the person desiring such release or subordination may file an application for the relief desired. A copy of the application and a notice of hearing shall be served on the judgment creditor either personally or by registered or certified mail no less than ten days before the date of hearing. If the court finds that the release or subordination is not requested for the purpose of avoiding payment and that the release or subordination will not unduly reduce the security, the court may ~~release~~ issue an order releasing real or personal property from the judgment lien or issue an order subordinating the judgment lien. As a condition for such release or subordination, the court may require the posting of a bond with the clerk in an amount fixed by the court, guaranteeing payment of the judgment;

(5) The court may in any case, upon application or its own motion, after notice and hearing, order a person required to make payments to post sufficient security, bond, or other guarantee with the clerk to insure payment of both current and any delinquent amounts. Upon failure to comply with the order, the court may also appoint a receiver to take charge of the debtor's property to insure payment. Any bond, security, or other guarantee paid in cash may, when the court deems it appropriate, be applied either to current payments or to reduce any accumulated arrearage; ~~and~~

(6)(a) The lien of a mortgage or deed of trust which secures a loan, the proceeds of which are used to purchase real property, and (b) any lien given priority pursuant to a subordination document under this section shall attach prior to any lien authorized by this section. Any mortgage or deed of trust which secures the refinancing, renewal, or extension of a real property purchase money mortgage or deed of trust shall have the same lien priority with respect to any lien authorized by this section as the original real property purchase money mortgage or deed of trust to the extent that the amount of the loan refinanced, renewed, or extended does not exceed the amount used to pay the principal and interest on the existing real property purchase money mortgage or deed of

trust, plus the costs of the refinancing, renewal, or extension; and

(7) Any lien authorized by this section against personal property registered with any county consisting of a motor vehicle or mobile home shall attach upon notation of the lien against the motor vehicle or mobile home certificate of title and shall have its priority established pursuant to the terms of section 60-110 or a subordination document executed under this section.

Sec. 53. That section 43-1406, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1406. The father of a child whose paternity is established either by acknowledgment or by a judicial proceeding as specified in sections 43-1401 to 43-1412, not having entered into a judicially approved settlement or being in default in the performance of the same, may be made the defendant in an equitable proceeding for the support of the child. The mother of the child may also be made a defendant in such a proceeding. Such proceeding shall be commenced by a complaint of the mother of the child, the father of the child whose paternity has been established, the guardian or next friend of the child, the state when required to support the child, the county attorney, or an authorized attorney as defined in section 43-512. The complainant shall set forth the facts of paternity, if relevant, and of nonsupport and shall ask that the father, the mother, or both parents be ordered to provide for the support of the child. Summons shall issue against the father, the mother, or both parents and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county. The method of trial shall be the same as in actions formerly cognizable in equity, and jurisdiction to hear and determine such actions for support is hereby vested in the district court of the district where the child is domiciled or found or, for cases under ~~section 42-788~~ the Uniform Interstate Family Support Act, where the father of the child is domiciled. If the court finds that the father, the mother, or both parents have failed adequately to support the child, the court shall issue a decree directing him, her, or them to do so, specifying the amount of such support, the manner in which it shall be furnished, and the amount, if any, of any court costs and attorney's fees to be paid by the father, the mother, or both parents. The court in its discretion, after notice and hearing, may order implementation of income withholding pursuant to the Income Withholding for Child Support Act, if income withholding is appropriate, or may require the furnishing of bond to insure the performance of the decree in the same manner as is provided for in section 43-1405. Failure on the part of the defendant to perform the terms of such decree shall constitute contempt of court and may be dealt with in the same manner as other contempts.

Sec. 54. That section 43-1411, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1411. A civil proceeding to establish the paternity of a child may be instituted, in any district court of the district where the child is domiciled or found or, for cases under ~~section 42-788~~ the Uniform

Interstate Family Support Act, where the alleged father is domiciled, by (1) the mother or the alleged father of such child, either during pregnancy or within four years after the child's birth, unless consent or relinquishment has been made by the mother or pursuant to section 43-105 for purposes of adoption or (2) the guardian or next friend of such child or the state, either during pregnancy or within eighteen years after the child's birth. Summons shall issue and be served as in other civil proceedings, except that such summons may be directed to the sheriff of any county in the state and may be served in any county.

Sec. 55. That section 43-1415, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1415. The results of the tests, including the statistical probability of paternity, shall be admissible evidence and shall be weighed along with other evidence of paternity. Such evidence may be introduced by verified written report unless there is a timely request for personal testimony of the expert at least thirty days prior to trial. When the alleged father has signed a notarized acknowledgment there shall exist a rebuttable presumption of paternity as against the alleged father joined in the action.

Sec. 56. That section 43-1729, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1729. Upon receiving a foreign support order and the documentation specified in section 43-1730 from an agency of another jurisdiction, an obligee, an obligor, or an attorney for either, the department shall transmit such order and documents to be filed with the clerk of the district court in the jurisdiction within this state in which income withholding is being sought. The clerk of the district court shall accept the documents filed, and such acceptance shall constitute entry of the foreign support order for purposes of income withholding.

The filing process required by this section shall not be construed as requiring an application, petition, answer, and hearing as might be required for the registration of foreign judgments by the Uniform Enforcement of Foreign Judgments Act or the ~~Revised Uniform Reciprocal Enforcement of~~ Uniform Interstate Family Support Act. The purpose of this section is to enable the clerk of the district court to receive, account for, and distribute collections generated by income withholding.

Sec. 57. Any action or proceeding under the Revised Uniform Reciprocal Enforcement of Support Act pending on the operative date of this section shall continue under the provisions of such act until the court rules on any pending action or proceeding.

Sec. 58. In any final decree or decree of modification in an action for dissolution of marriage, declaration concerning the validity of a marriage, legal separation, or declaration of paternity, regardless of the determination of the court relating to the custody of a minor child, (1) each parent shall continue to have full and equal access to the education and medical records of his or her child unless the court orders to the contrary and (2) either parent may make emergency decisions affecting the health or safety of his or her child while the child is in the physical custody

of such parent.

Sec. 59. Sections 1 to 57 and 61 of this act shall become operative on January 1, 1994. The other sections of this act shall become operative on their effective date.

Sec. 60. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 61. That original sections 43-1415 and 43-1729, Reissue Revised Statutes of Nebraska, 1943, and sections 42-371, 43-1406, and 43-1411, Revised Statutes Supplement, 1992, and also sections 42-762, 42-764 to 42-772, 42-774 to 42-778, 42-780 to 42-791, 42-794 to 42-798, 42-7,100, and 42-7,102 to 42-7,104, Reissue Revised Statutes of Nebraska, 1943, sections 42-792, 42-793, and 42-7,101, Revised Statutes Supplement, 1992, and sections 42-763, 42-773, 42-779, and 42-799, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 4, 5, 6, and 7, respectively, Legislative Bill 523, Ninety-third Legislature, First Session, 1993, are repealed.