

AMENDMENTS TO LB 288

(Amendments to Standing Committee amendments, AM846)

Introduced by Stuthman, 22.

1 1. Strike original section 34 and insert the following
2 new sections:

3 Sec. 4. Section 42-358.02, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 42-358.02 (1) All delinquent child support payments,
6 spousal support payments, and medical support payments shall draw
7 interest at the rate specified in section 45-103 in effect on the
8 date of the most recent order or decree. Such interest shall be
9 computed as simple interest.

10 (2) All child support payments, spousal support payments,
11 and medical support payments shall become delinquent the day after
12 they are due and owing, except that no obligor whose ~~child~~ support
13 payments are automatically withheld from his or her paycheck shall
14 be regarded or reported as being delinquent or in arrears if
15 (a) any delinquency or arrearage is solely caused by a disparity
16 between the schedule of the obligor's regular pay dates and the
17 scheduled date the ~~child~~ support payment is due, (b) the total
18 amount of ~~child~~ support payments to be withheld from the paychecks
19 of the obligor and the amount ordered by the support order are the
20 same on an annual basis, and (c) the automatic deductions for ~~child~~
21 support payments are continuous and occurring. Interest shall not
22 accrue until thirty days after such payments are delinquent.

1 (3) The court shall order the determination of the amount
2 of interest due, and such interest shall be payable in the same
3 manner as the support payments upon which the interest accrues
4 subject to subsection (2) of this section or unless it is waived
5 by agreement of the parties. The Title IV-D Division of the
6 Department of Health and Human Services shall compute interest and
7 identify delinquencies pursuant to this section on the payments
8 received by the State Disbursement Unit pursuant to section 42-369.
9 The Title IV-D Division shall provide the case information in
10 electronic format, and upon request in print format, to the judge
11 presiding over domestic relations cases and to the county attorney
12 or authorized attorney.

13 (4) Support order payments shall be credited in the
14 following manner:

15 (a) First, to the payments due for the current month in
16 the following order: Child support payments, then spousal support
17 payments, and lastly medical support payments;

18 (b) Second, toward any payment arrearage owing, in the
19 following order: Child support payment arrearage, then spousal
20 support payment arrearage, and lastly medical support payment
21 arrearage; and

22 (c) Third, toward the interest on any payment arrearage,
23 in the following order: Child support payment arrearage interest,
24 then spousal support payment arrearage interest, and lastly medical
25 support payment arrearage interest.

26 (5) Interest which may have accrued prior to September 6,
27 1991, shall not be affected or altered by changes to this section

1 which take effect on such date. All delinquent ~~child~~ support
2 order payments and all decrees entered prior to such date shall
3 draw interest at the effective rate as prescribed by this section
4 commencing as of such date.

5 Sec. 5. Section 42-364, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 42-364 (1) In an action under Chapter 42 involving
8 child support, child custody, parenting time, visitation, or other
9 access, the parties and their counsel, if represented, shall
10 develop a parenting plan as provided in the Parenting Act. If
11 the parties and counsel do not develop a parenting plan, the
12 complaint shall so indicate as provided in section 42-353 and
13 before July 1, 2010, the case may be referred to mediation,
14 specialized alternative dispute resolution, or other alternative
15 dispute resolution process and on or after such date the case
16 shall be referred to mediation or specialized alternative dispute
17 resolution as provided in the Parenting Act. The decree in an
18 action involving the custody of a minor child shall include the
19 determination of legal custody and physical custody based upon the
20 best interests of the child, as defined in the Parenting Act, and
21 child support. Such determinations shall be made by incorporation
22 into the decree of (a) a parenting plan developed by the parties,
23 if approved by the court, or (b) a parenting plan developed by the
24 court based upon evidence produced after a hearing in open court if
25 no parenting plan is developed by the parties or the plan developed
26 by the parties is not approved by the court. The decree shall
27 conform to the Parenting Act. The social security number of each

1 parent and the minor child shall be furnished to the clerk of the
2 district court but shall not be disclosed or considered a public
3 record.

4 (2) In determining legal custody or physical custody,
5 the court shall not give preference to either parent based on the
6 sex of the parent and, except as provided in section 43-2933, no
7 presumption shall exist that either parent is more fit or suitable
8 than the other. Custody shall be determined on the basis of the
9 best interests of the child, as defined in the Parenting Act.
10 Unless parental rights are terminated, both parents shall continue
11 to have the rights stated in section 42-381.

12 (3) Custody of a minor child may be placed with both
13 parents on a joint legal custody or joint physical custody basis,
14 or both, (a) when both parents agree to such an arrangement in the
15 parenting plan and the court determines that such an arrangement is
16 in the best interests of the child or (b) if the court specifically
17 finds, after a hearing in open court, that joint physical custody
18 or joint legal custody, or both, is in the best interests of the
19 minor child regardless of any parental agreement or consent.

20 (4) In determining the amount of child support to be
21 paid by a parent, the court shall consider the earning capacity
22 of each parent and the guidelines provided by the Supreme Court
23 pursuant to section 42-364.16 for the establishment of child
24 support obligations. Upon application, hearing, and presentation of
25 evidence of an abusive disregard of the use of child support money
26 or cash medical support paid by one party to the other, the court
27 may require the party receiving such payment to file a verified

1 report with the court, as often as the court requires, stating the
2 manner in which ~~such~~ child support money or cash medical support
3 is used. Child support money or cash medical support paid to the
4 party having custody of the minor child shall be the property of
5 such party except as provided in section 43-512.07. The clerk of
6 the district court shall maintain a record, separate from all other
7 judgment dockets, of all decrees and orders in which the payment
8 of child support, cash medical support, or spousal support has
9 been ordered, whether ordered by a district court, county court,
10 separate juvenile court, or county court sitting as a juvenile
11 court. Orders for child support or cash medical support in cases
12 in which a party has applied for services under Title IV-D of
13 the federal Social Security Act, as amended, shall be reviewed as
14 provided in sections 43-512.12 to 43-512.18.

15 (5) Whenever termination of parental rights is placed in
16 issue:

17 (a) The court shall transfer jurisdiction to a juvenile
18 court established pursuant to the Nebraska Juvenile Code unless
19 a showing is made that the county court or district court
20 is a more appropriate forum. In making such determination, the
21 court may consider such factors as cost to the parties, undue
22 delay, congestion of dockets, and relative resources available for
23 investigative and supervisory assistance. A determination that the
24 county court or district court is a more appropriate forum shall
25 not be a final order for the purpose of enabling an appeal. If
26 no such transfer is made, the court shall appoint an attorney as
27 guardian ad litem to protect the interests of any minor child.

1 The court may terminate the parental rights of one or both parents
2 after notice and hearing when the court finds such action to be in
3 the best interests of the minor child, as defined in the Parenting
4 Act, and it appears by the evidence that one or more of the grounds
5 for termination of parental rights stated in section 43-292 exist;
6 and

7 (b) The court shall inform a parent who does not have
8 legal counsel of the parent's right to retain counsel and of
9 the parent's right to retain legal counsel at county expense if
10 such parent is unable to afford legal counsel. If such parent
11 is unable to afford legal counsel and requests the court to
12 appoint legal counsel, the court shall immediately appoint an
13 attorney to represent the parent in the termination proceedings.
14 The court shall order the county to pay the attorney's fees and
15 all reasonable expenses incurred by the attorney in protecting the
16 rights of the parent. At such hearing, the guardian ad litem shall
17 take all action necessary to protect the interests of the minor
18 child. The court shall fix the fees and expenses of the guardian ad
19 litem and tax the same as costs but may order the county to pay on
20 finding the responsible party indigent and unable to pay.

21 (6) Modification proceedings relating to support,
22 custody, parenting time, visitation, other access, or removal of
23 children from the jurisdiction of the court shall be commenced
24 by filing a complaint to modify. Modification of a parenting
25 plan is governed by the Parenting Act. Proceedings to modify a
26 parenting plan shall be commenced by filing a complaint to modify.
27 Such actions may be referred to mediation, specialized alternative

1 dispute resolution, or other alternative dispute resolution process
2 before July 1, 2010, and on and after such date shall be referred
3 to mediation or specialized alternative dispute resolution as
4 provided in the Parenting Act. Service of process and other
5 procedure shall comply with the requirements for a dissolution
6 action.

7 (7) In any proceeding under this section relating to
8 custody of a child of school age, certified copies of school
9 records relating to attendance and academic progress of such child
10 are admissible in evidence.

11 Sec. 6. Section 42-369, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 42-369 (1) All orders, decrees, or judgments for
14 temporary or permanent support payments, including child, spousal,
15 or medical support, and all orders, decrees, or judgments for
16 alimony or modification of support payments or alimony shall direct
17 the payment of such sums to be made commencing on the first day
18 of each month for the use of the persons for whom the support
19 payments or alimony have been awarded. Such payments shall be made
20 to the clerk of the district court (a) when the order, decree, or
21 judgment is for spousal support, alimony, or maintenance support
22 and the order, decree, or judgment does not also provide for
23 child support, and (b) when the payment constitutes child care
24 or day care expenses, unless payments under subdivision (1)(a) or
25 (1)(b) of this section are ordered to be made directly to the
26 obligee. All other support order payments shall be made to the
27 State Disbursement Unit. In all cases in which income withholding

1 has been implemented pursuant to the Income Withholding for Child
2 Support Act or sections 42-364.01 to 42-364.14, support order
3 payments shall be made to the State Disbursement Unit. The court
4 may order such payment to be in cash or guaranteed funds.

5 ~~(2)~~ (2)(a) If the ~~person~~ party against whom an order,
6 decree, or judgment for child support is entered or the custodial
7 ~~parent or guardian~~ party has health insurance available to him
8 or her through an employer, ~~or organization,~~ or other health
9 insurance entity which may extend to cover any children affected
10 by the order, decree, or judgment and the health care coverage
11 is accessible to the children and is available to the responsible
12 party at reasonable cost, the court shall require health care
13 coverage to be provided. Health care coverage is accessible if
14 the covered children can obtain services from a plan provider with
15 reasonable effort by the custodial party. When the administrative
16 agency, court, or other tribunal determines that the only health
17 care coverage option available through the noncustodial party
18 is a plan that limits service coverage to providers within a
19 defined geographic area, the administrative agency, court, or
20 other tribunal shall determine whether the child lives within the
21 plan's service area. If the child does not live within the plan's
22 service area, the administrative agency, court, or other tribunal
23 shall determine whether the plan has a reciprocal agreement that
24 permits the child to receive coverage at no greater cost than if
25 the child resided in the plan's service area. The administrative
26 agency, court, or other tribunal shall also determine if primary
27 care is available within thirty minutes or thirty miles of the

1 child's residence. For the purpose of determining the accessibility
2 of health care coverage, the administrative agency, court, or
3 other tribunal may determine and include in an order that longer
4 travel times are permissible if residents, in part or all of the
5 service area, customarily travel distances farther than thirty
6 minutes or thirty miles. If primary care services are not
7 available within these constraints, the health care coverage is
8 presumed inaccessible. If health care coverage is not available
9 or is inaccessible and one or more of the parties are receiving
10 Title IV-D services, then cash medical support shall be ordered.
11 Cash medical support or the cost of private health insurance is
12 considered reasonable in cost if the cost to the party responsible
13 for providing medical support does not exceed three percent of his
14 or her gross income. In applying the three-percent standard, the
15 cost is the cost of adding the children to existing health care
16 coverage or the difference between self-only and family health care
17 coverage. Cash medical support payments shall not be ordered if,
18 at the time that the order is issued or modified, the responsible
19 party's income is or such expense would reduce the responsible
20 party's net income below the basic subsistence limitation provided
21 in Nebraska Court Rule section 4-218. If such rule does not
22 describe a basic subsistence limitation, the responsible party's
23 net income shall not be reduced below nine hundred three dollars
24 net monthly income for one person or below the poverty guidelines
25 updated annually in the Federal Register by the U. S. Department of
26 Health and Human Services under the authority of 42 U.S.C. 902(2).
27 the court shall require the option to be exercised or comparable

1 coverage be obtained by either party for additional coverage which
2 favors the best interests of the child or children affected unless
3 the parties have otherwise stipulated in writing or to the court.

4 (b) For purposes of this section:

5 (i) Health care coverage has the same meaning as in
6 section 44-3,144; and

7 (ii) Cash medical support means an amount ordered to be
8 paid toward the cost of health insurance provided by a public
9 entity or by another parent through employment or otherwise or for
10 other medical costs not covered by insurance.

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

17 (4) Orders, decrees, and judgments for temporary or
18 permanent support or alimony shall be filed with the clerk of the
19 district court and have the force and effect of judgments when
20 entered. The clerk and the State Disbursement Unit shall disburse
21 all payments received as directed by the court and as provided
22 in sections 42-358.02 and 43-512.07. Records shall be kept of all
23 funds received and disbursed by the clerk and the unit and shall be
24 open to inspection by the parties and their attorneys.

25 (5) Unless otherwise specified by the court, an equal and
26 proportionate share of any child support awarded shall be presumed
27 to be payable on behalf of each child subject to the order, decree,

1 or judgment for purposes of an assignment under section 43-512.07.

2 Sec. 7. Section 43-512, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 43-512 (1) Any dependent child as defined in section
5 43-504 or any relative or eligible caretaker of such a dependent
6 child may file with the Department of Health and Human Services
7 a written application for financial assistance for such child on
8 forms furnished by the department.

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

18 (3) The department shall make a finding as to whether the
19 application referred to in subsection (1) of this section should
20 be allowed or denied. If the department finds that the application
21 should be allowed, the department shall further find the amount
22 of monthly assistance which should be paid with reference to such
23 dependent child. Except as may be otherwise provided, payments
24 shall be made by state warrant, and the amount of payments shall
25 not exceed three hundred dollars per month when there is but
26 one dependent child and one eligible caretaker in any home, plus
27 an additional seventy-five dollars per month on behalf of each

1 additional eligible person. No payments shall be made for amounts
2 totaling less than ten dollars per month except in the recovery of
3 overpayments.

4 (4) The amount which shall be paid as assistance with
5 respect to a dependent child shall be based in each case upon the
6 conditions disclosed by the investigation made by the department.
7 An appeal shall lie from the finding made in each case to the
8 chief executive officer of the department or his or her designated
9 representative. Such appeal may be taken by any taxpayer or by any
10 relative of such child. Proceedings for and upon appeal shall be
11 conducted in the same manner as provided for in section 68-1016.

12 (5)(a) For the purpose of preventing dependency, the
13 department shall adopt and promulgate rules and regulations
14 providing for services to former and potential recipients of aid to
15 dependent children and medical assistance benefits. The department
16 shall adopt and promulgate rules and regulations establishing
17 programs and cooperating with programs of work incentive, work
18 experience, job training, and education. The provisions of this
19 section with regard to determination of need, amount of payment,
20 maximum payment, and method of payment shall not be applicable to
21 families or children included in such programs.

22 (b) If a recipient of aid to dependent children becomes
23 ineligible for aid to dependent children as a result of increased
24 hours of employment or increased income from employment after
25 having participated in any of the programs established pursuant to
26 subdivision (a) of this subsection, the recipient may be eligible
27 for the following benefits, as provided in rules and regulations of

1 the department in accordance with sections 402, 417, and 1925 of
2 the federal Social Security Act, as amended, Public Law 100-485,
3 in order to help the family during the transition from public
4 assistance to independence:

5 (i) An ongoing transitional payment that is intended to
6 meet the family's ongoing basic needs which may include food,
7 clothing, shelter, utilities, household goods, personal care items,
8 and general incidental expenses during the five months following
9 the time the family becomes ineligible for assistance under the aid
10 to dependent children program, if the family's earned income is at
11 or below one hundred eighty-five percent of the federal poverty
12 level at the time the family becomes ineligible for the aid to
13 dependent children program. Payments shall be made in five monthly
14 payments, each equal to one-fifth of the aid to dependent children
15 payment standard for the family's size at the time the family
16 becomes ineligible for the aid to dependent children program. If
17 during the five-month period, (A) the family's earnings exceed one
18 hundred eighty-five percent of the federal poverty level, (B) the
19 family members are no longer working, (C) the family ceases to
20 be Nebraska residents, (D) there is no longer a minor child in
21 the family's household, or (E) the family again becomes eligible
22 for the aid to dependent children program, the family shall become
23 ineligible for any remaining transitional benefits under this
24 subdivision;

25 (ii) Child care as provided in subdivision (1)(c) of
26 section 68-1724; and

27 (iii) Except as may be provided in accordance with

1 subsection (2) of section 68-1713 and subdivision (1)(c) of section
2 68-1724, medical assistance for up to twelve months after the month
3 the recipient becomes employed and is no longer eligible for aid to
4 dependent children.

5 (6) For purposes of sections 43-512 ~~to 43-512.10 and~~
6 ~~43-512.12~~ to 43-512.18:

7 (a) Authorized attorney shall mean an attorney, employed
8 by the county subject to the approval of the county board, employed
9 by the department, or appointed by the court, who is authorized
10 to investigate and prosecute child, spousal, and medical support
11 cases. An authorized attorney shall represent the state as provided
12 in section 43-512.03;

13 (b) Child support shall be defined as provided in section
14 43-1705;

15 (c) Medical support shall include all expenses associated
16 with the birth of a child, cash medical support as defined
17 in section 42-369, health care coverage as defined in section
18 44-3,144, and, if required pursuant to section 42-369 or 43-290,
19 and medical and hospital insurance coverage or membership in a
20 health maintenance organization or preferred provider organization;

21 (d) Spousal support shall be defined as provided in
22 section 43-1715;

23 (e) State Disbursement Unit shall be defined as provided
24 in section 43-3341; and

25 (f) Support shall be defined as provided in section
26 43-3313.

27 Sec. 8. Section 43-512.03, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 43-512.03 (1) The county attorney or authorized attorney
3 shall:

4 (a) On request by the Department of Health and Human
5 Services as described in subsection (2) of this section or when
6 the investigation or application filed under section 43-512 or
7 43-512.02 justifies, file a complaint against a nonsupporting
8 ~~parent or stepparent~~ party in the district, county, or separate
9 juvenile court praying for an order for child or medical support
10 in cases when there is no existing child or medical support order.
11 After notice and hearing, the court shall adjudicate the child and
12 medical support liability of ~~the nonsupporting parent or stepparent~~
13 either party and enter an order accordingly;

14 (b) Enforce child, spousal, and medical support orders by
15 an action for income withholding pursuant to the Income Withholding
16 for Child Support Act;

17 (c) In addition to income withholding, enforce child,
18 spousal, and medical support orders by other civil actions or
19 administrative actions, citing the defendant for contempt, or
20 filing a criminal complaint;

21 (d) Establish paternity and collect child and medical
22 support on behalf of children born out of wedlock; and

23 (e) Carry out sections 43-512.12 to 43-512.18.

24 (2) The department may periodically review cases of
25 individuals receiving enforcement services and make referrals to
26 the county attorney or authorized attorney.

27 (3) In any action brought by or intervened in by a

1 county attorney or authorized attorney under the Income Withholding
2 for Child Support Act, the License Suspension Act, the Uniform
3 Interstate Family Support Act, or sections 42-347 to 42-381,
4 43-290, 43-512 ~~to 43-512.10,~~ 43-512.12 to 43-512.18, 43-1401 to
5 43-1418, and 43-3328 to 43-3339, such attorneys shall represent the
6 State of Nebraska.

7 (4) The State of Nebraska shall be a real party in
8 interest in any action brought by or intervened in by a county
9 attorney or authorized attorney for the purpose of establishing
10 paternity or securing, modifying, suspending, or terminating child
11 or medical support or in any action brought by or intervened in by
12 a county attorney or authorized attorney to enforce an order for
13 child, spousal, or medical support.

14 (5) Nothing in this section shall be construed to
15 interpret representation by a county attorney or an authorized
16 attorney as creating an attorney-client relationship between the
17 county attorney or authorized attorney and any party or witness to
18 the action, other than the State of Nebraska, regardless of the
19 name in which the action is brought.

20 Sec. 9. Section 43-512.07, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 43-512.07 (1) Any action, payment, aid, or assistance
23 listed in ~~subdivisions (a) through (e)~~ of this subsection shall
24 constitute an assignment by operation of law to the Department
25 of Health and Human Services of any right to spousal or medical
26 support, when ordered by the court, and to child support, whether
27 or not ordered by the court, which a ~~recipient~~ person may have in

1 his or her own behalf or on behalf of any other person for whom an
2 ~~applicant~~ such person receives such payments, aid, or assistance: 7
3 ~~including any accrued arrearages as of the time of the assignment:~~

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

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

9 (c) Receipt of aid from child welfare funds.

10 The assignment under this section is the right to support
11 payments that become due while the person is receiving payments,
12 aid, or assistance listed in this subsection. The department shall
13 be entitled to retain such child, spousal, or other support up to
14 the amount of payments, aid, or assistance provided to a recipient.
15 For purposes of this section, the right to receive ~~current~~ and
16 ~~past-due~~ child support shall belong to the child and the assignment
17 shall be effective as to any such support even if the recipient of
18 the payments, aid, or assistance is not the same as the payee of
19 court-ordered support.

20 (2) After notification of the State Disbursement Unit
21 receiving the child, spousal, or other support payments made
22 pursuant to a court order that the person for whom such support
23 is ordered is a recipient of payments, aid, or assistance listed
24 in subsection (1) of this section, the department shall also give
25 notice to the payee named in the court order at his or her
26 last-known address.

27 (3) Upon written or other notification from the

1 department or from another state of such assignment of child,
2 spousal, or other support payments, the State Disbursement Unit
3 shall transmit the support payments received to the department
4 or the other state without the requirement of a subsequent order
5 by the court. The State Disbursement Unit shall continue to
6 transmit the support payments for as long as the payments, aid, or
7 assistance listed in subsection (1) of this section continues.

8 (4) Any court-ordered child, spousal, or other support
9 remaining unpaid during the period of the assignment for the months
10 during which such payments, aid, or assistance was made shall
11 constitute a debt and a continuing assignment at the termination
12 of payments, aid, or assistance listed in subsection (1) of
13 this section, collectible by the department or other state as
14 reimbursement for such payments, aid, or assistance. ~~However, any~~
15 ~~assignment pursuant to subdivisions (1)(b) and (1)(c) of this~~
16 ~~section shall be limited to the amount of child support due for~~
17 ~~any months during which such payments, aid, or assistance was made.~~
18 The continuing assignment shall only apply to support payments
19 made during a calendar period which exceed the specific amount of
20 support ordered for that period. When payments, aid, or assistance
21 listed in subsection (1) of this section have ceased and upon
22 notice by the department or the other state, the State Disbursement
23 Unit shall continue to transmit to the department or the other
24 state any support payments received ~~on arrearages~~ in excess of the
25 amount of support ordered for that specific calendar period until
26 notified by the department or the other state that the debt has
27 been paid in full, ~~except that any amount of support arrearages~~

1 ~~that has accrued or accrues after termination of payments, aid, or~~
2 ~~assistance listed in subsection (1) of this section shall be paid~~
3 ~~first by the unit to the person to whom support is due before any~~
4 ~~reimbursement is made to the department or the other state.~~

5 Sec. 10. Section 43-512.12, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 43-512.12 Child support orders in cases in which a party
8 has applied for services under Title IV-D of the federal Social
9 Security Act, as amended, shall be reviewed by the Department of
10 Health and Human Services to determine whether to refer such orders
11 to the county attorney or authorized attorney for filing of an
12 application for modification. An order shall be reviewed by the
13 department upon its own initiative or at the request of either
14 parent when such review is required by Title IV-D of the federal
15 Social Security Act, as amended. After review the department shall
16 refer an order to a county attorney or authorized attorney when
17 the verifiable financial information available to the department
18 indicates:

19 (1) The present child support obligation varies from
20 the Supreme Court child support guidelines pursuant to section
21 42-364.16 by more than the percentage, amount, or other criteria
22 established by Supreme Court rule, and the variation is due to
23 financial circumstances which have lasted at least three months and
24 can reasonably be expected to last for an additional six months; or

25 (2) Health insurance care coverage meeting the
26 requirements of subsection (2) of section 42-369 is available to
27 ~~the obligor as provided in subsection (2) of section 42-369~~ either

1 party and the children are not covered by health insurance do not
2 have health care coverage other than the medical assistance program
3 under the Medical Assistance Act.

4 An order shall not be reviewed by the department if
5 it has not been three years since the present child support
6 obligation was ordered. An order shall not be reviewed by the
7 department more than once every three years unless the requesting
8 party demonstrates a substantial change in circumstances, and
9 an order may be reviewed after one year if the department's
10 determination after the previous review was not to refer to the
11 county attorney or authorized attorney for filing of an application
12 for modification because financial circumstances had not lasted
13 or were not expected to last for the time periods established by
14 subdivision (1) of this section.

15 Sec. 11. Section 43-512.16, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 43-512.16 The county attorney or authorized attorney
18 shall review the health ~~insurance~~ care coverage provisions
19 contained in any child support order which is subject to review
20 under section 43-512.12 and shall include in any application for
21 modification a request that the court order health ~~insurance~~ care
22 coverage or cash medical support as provided in subsection (2) of
23 section 42-369.

24 Sec. 12. Section 43-512.17, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 43-512.17 Any financial information provided to the
27 Department of Health and Human Services, the county attorney,

1 or the authorized attorney by either parent for the purpose of
2 facilitating a modification proceeding under sections 43-512.12 to
3 43-512.18 may be disclosed to the other parties to the case or to
4 the court. Financial information shall include the following:

5 (1) An affidavit of financial status provided by the
6 party requesting review;

7 (2) An affidavit of financial status of the nonrequesting
8 party provided by the nonrequesting party or by the requesting
9 party at the request of the county attorney or authorized attorney;

10 (3) Supporting documentation such as state and federal
11 income tax returns, paycheck stubs, W-2 forms, 1099 forms, bank
12 statements, and other written evidence of financial status; and

13 (4) Information relating to health insurance care
14 coverage as provided in subsection (2) of section 42-369.

15 Sec. 13. Section 44-3,144, Revised Statutes Cumulative
16 Supplement, 2008, is amended to read:

17 44-3,144 For purposes of sections 44-3,144 to 44-3,150:

18 (1) Authorized attorney has the same meaning as in
19 section 43-512;

20 (2) Child means an individual to whom or on whose behalf
21 a legal duty of support is owed by an obligor;

22 (3) Department means the Department of Health and Human
23 Services;

24 (4) Employer means an individual, a firm, a partnership,
25 a corporation, an association, a union, a political subdivision, a
26 state agency, or any agent thereof who pays income to an obligor on
27 a periodic basis and has or provides health care coverage to the

1 obligor-employee;

2 (5) Health care coverage means a health benefit plan or
3 combination of plans, including fee for service, health maintenance
4 organization, preferred provider organization, and other types of
5 coverage available to either party, under which medical services
6 could be provided to dependent children, other than public medical
7 assistance programs, that provide medical care or benefits;

8 (6) Insurer means an insurer as defined in section 44-103
9 offering a group health plan as defined in 29 U.S.C. 1167, as such
10 section existed on January 1, 2002;

11 (7) Medical support means the provision of health care
12 coverage, contribution to the cost of health care coverage,
13 contribution to expenses associated with the birth of a child,
14 other uninsured medical expenses of a child, or any combination
15 thereof;

16 (8) Medical assistance program means the program
17 established pursuant to the Medical Assistance Act;

18 (9) National medical support notice means a uniform
19 administrative notice issued by the county attorney, authorized
20 attorney, or department to enforce the medical support provisions
21 of a support order;

22 (10) Obligee has the same meaning as in section 43-3341;

23 (11) Obligor has the same meaning as in section 43-3341;

24 (12) Plan administrator means the person or entity that
25 administers health care coverage for an employer;

26 (13) Qualified medical child support order means an order
27 that meets the requirements of 29 U.S.C. 1169, as such section

1 existed on January 1, 2002; and

2 (14) Uninsured medical expenses means the reasonable and
3 necessary health-related expenses that are not paid by health care
4 coverage.

5 Sec. 15. Section 48-2302, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 48-2302 For purposes of the New Hire Reporting Act:

8 (1) Date of hire means the day an employee begins
9 employment with an employer;

10 (2) Department means the Department of Health and Human
11 Services;

12 (3) Employee means ~~any~~ an independent contractor or a
13 person who is compensated by or receives income from an employer or
14 other payor, regardless of how such income is denominated;

15 (4) Employer means any individual, partnership, limited
16 liability company, firm, corporation, association, political
17 subdivision, or department or agency of the state or federal
18 government, labor organization, or any other entity with an
19 employee;

20 (5) Income means compensation paid, payable, due, or to
21 be due for labor or personal services, whether denominated as
22 wages, salary, earnings, income, commission, bonus, or otherwise;

23 (6) Payor includes a person, partnership, limited
24 partnership, limited liability partnership, limited liability
25 company, corporation, or other entity doing business or authorized
26 to do business in the State of Nebraska, including a financial
27 institution, or a department or an agency of state, county, or city

1 government; and

2 (7) Rehire means the first day an employee begins
3 employment with the employer following a termination of employment
4 with such employer. Termination of employment does not include
5 temporary separations from employment, such as an unpaid medical
6 leave, an unpaid leave of absence, a temporary layoff, or an
7 absence for disability or maternity.

8 Sec. 35. Section 77-27,166, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-27,166 (1) ~~By December 1 of each year,~~ the
11 Department of Health and Human Services may submit any certified
12 debt of twenty-five dollars or more to the Department of Revenue
13 except when the validity of the debt is legitimately in dispute.
14 The submission of debts of past due support shall be a continuous
15 submission process that allows the amount past due support to
16 fluctuate up or down depending on the actual amount owed. Any
17 submission shall be effective only to initiate setoff for a
18 claim against a refund that would be made for the calendar year
19 subsequent to the year in which such submission is made.

20 (2) The Lottery Division of the Department of Revenue
21 shall review all current debts on the records of the Department of
22 Health and Human Services at the time of redeeming a lottery ticket
23 for a state lottery prize to certify a debt owed by a winner of a
24 state lottery prize.

25 Sec. 46. Sections 17, 18, 19, 20, 21, 22, 32, 38, 42, 46,
26 47, and 54 of this act become operative on their effective date.
27 Sections 5, 6, 7, 8, 10, 11, 12, 13, and 49 of this act become

1 operative on September 30, 2009. Sections 9 and 50 of this act
2 become operative on October 1, 2009. Sections 15, 35, and 51 of
3 this act become operative on January 1, 2010. Sections 4 and 52 of
4 this act become operative on October 1, 2010. The other sections of
5 this act become operative three calendar months after adjournment
6 of this legislative session.

7 Sec. 49. Original sections 42-364, 42-369, 43-512,
8 43-512.03, 43-512.12, 43-512.16, and 43-512.17, Reissue Revised
9 Statutes of Nebraska, and section 44-3,144, Revised Statutes
10 Cumulative Supplement, 2008, are repealed.

11 Sec. 50. Original section 43-512.07, Reissue Revised
12 Statutes of Nebraska, is repealed.

13 Sec. 51. Original sections 48-2302 and 77-27,166, Reissue
14 Revised Statutes of Nebraska, are repealed.

15 Sec. 52. Original section 42-358.02, Reissue Revised
16 Statutes of Nebraska, is repealed.

17 2. Renumber the remaining sections and correct internal
18 references accordingly.