

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 924

Introduced by Kolterman, 24.

Read first time January 12, 2016

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Income Withholding for Child Support
- 2 Act; to amend section 43-1718.01, Reissue Revised Statutes of
- 3 Nebraska; to provide for an additional withholding procedure for
- 4 certain payments; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-1718.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 43-1718.01 (1) In any case in which services are provided under
4 Title IV-D of the federal Social Security Act, as amended, and a support
5 order has been issued or modified on or after September 6, 1991, the
6 obligor's income shall be subject to income withholding regardless of
7 whether or not payments pursuant to such order are in arrears, and the
8 court shall require such income withholding in its order, unless:

9 (a) One of the parties demonstrates and the court finds that there
10 is good cause not to require immediate income withholding; or

11 (b) A written agreement between the parties, including the state if
12 there is an assignment of support pursuant to section 43-512.07,
13 providing an alternative arrangement is incorporated into the support
14 order.

15 (2) In any case in which services are provided under Title IV-D of
16 the federal Social Security Act, as amended, the income of an obligor not
17 subject to withholding pursuant to subsection (1) of this section shall
18 become subject to income withholding:

19 (a) On the date on which the payments are delinquent in an amount
20 equal to the support due and payable for a one-month period of time; or

21 (b) Regardless of whether payments are in arrears, on the earliest
22 of (i) the date as of which the obligor requests that income withholding
23 begin, (ii) the date as of which the obligee requests that income
24 withholding begin if the department determines that such request should
25 be approved, or (iii) any earlier date after September 6, 1991, which the
26 department selects.

27 The obligor shall receive notice of income withholding and his or
28 her right to a hearing pursuant to section 43-1720 when his or her income
29 is withheld pursuant to subdivision (b)(ii) or (b)(iii) of this
30 subsection.

31 (3) In any case in which services are provided under Title IV-D of

1 the federal Social Security Act, as amended, and a support order has been
2 issued or modified on or after September 6, 1991, the noncustodial parent
3 may pay his or her support through monthly automatic financial
4 institution withdrawal through the State Disbursement Unit if the
5 following conditions are met:

6 (a) The noncustodial parent, custodial parent, and the department
7 sign a written, notarized agreement;

8 (b) The noncustodial parent is current and not in arrears on his or
9 her support payments at the time of the written, notarized agreement;

10 (c) The amount automatically withdrawn from the noncustodial
11 parent's financial institution is at least the amount of the court-
12 ordered monthly support obligation; and

13 (d) The automatic financial institution withdrawal occurs on a
14 regular, consistent basis each month.

15 Any partial payment or missed payment shall subject the noncustodial
16 parent to mandatory income withholding as provided in the court order.

17 (4 3) No obligor whose child support payments are automatically
18 withheld from his or her paycheck shall be regarded or reported as being
19 delinquent or in arrears if (a) any delinquency or arrearage is solely
20 caused by a disparity between the schedule of the obligor's regular pay
21 dates and the scheduled date the child support is due, (b) the total
22 amount of child support to be withheld from the paychecks of the obligor
23 and the amount ordered by the support order are the same on an annual
24 basis, and (c) the automatic deductions for child support are continuous
25 and occurring.

26 (5 4) The department shall adopt and promulgate rules and
27 regulations necessary to carry out this section.

28 Sec. 2. Original section 43-1718.01, Reissue Revised Statutes of
29 Nebraska, is repealed.