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SENATE BILL 1162

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

FERNANDO R. MACIAS

AN ACT

RELATING TO CHILD SUPPORT; AMENDING AND ENACTING SECTIONS OF THE  
NMSA 1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [NEW MATERIAL] STATE CASE REGISTRY. --

A. The human services department, acting as the  
state's child support enforcement agency pursuant to Title IV-D  
of the Social Security Act, shall establish a state case  
registry that contains records with respect to:

(1) each case in which services are being  
provided by the state Title IV-D agency; and

(2) each support order established or modified  
in the state on or after October 1, 1998.

B. The records maintained by the state case registry  
shall use standardized data elements for parents such as names,

1 social security numbers and other uniform identification numbers  
2 like dates of birth and case identification numbers, and contain  
3 such other information such as on case status as the secretary  
4 of the United States department of health and human services may  
5 require.

6 C. The Title IV-D agency and the administrative  
7 office of the courts shall work cooperatively to ensure that the  
8 requirements of this act are implemented in an effective,  
9 efficient and timely manner.

10 D. The state case registry shall extract information  
11 from its automated system to share and compare information with  
12 and to receive information from, other databases and information  
13 comparison services in order to obtain or provide information  
14 necessary to enable the Title IV-D agency or the United States  
15 health and human services department secretary or other state or  
16 federal agencies to carry out the Title IV-D program, subject to  
17 Section 6103 of the Internal Revenue Code of 1986. Such  
18 information comparison activities shall include the following:

19 (1) furnishing to the federal case registry of  
20 child support orders established (and update as necessary with  
21 information including notice of expiration of orders) the  
22 minimum amount of information on child support cases recorded in  
23 the state case registry that is necessary to operate the  
24 registry, as specified by the United States health and human  
25 services department secretary in regulations;

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1 (2) exchanging information with the federal  
2 parent locator service for the purposes specified in the State  
3 Directory of New Hires Act;

4 (3) exchanging information with state agencies  
5 of the state and of other states administering programs of  
6 temporary assistance for needy families and medicaid, and other  
7 programs designated by the United States health and human  
8 services secretary, as necessary to perform state agency  
9 responsibilities under this part and under such programs; and

10 (4) exchanging information with other agencies  
11 of the state, agencies of other states and interstate  
12 information networks, as necessary and appropriate to carry out  
13 or assist other states to carry out purposes of the Title IV-D  
14 program.

15 Section 2. [NEW MATERIAL] SHORT TITLE. --Sections 2  
16 through 5 of this act may be cited as the "State Directory of  
17 New Hires Act".

18 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
19 State Directory of New Hires Act:

20 A. "employee" means a person who is an employee  
21 within the meaning of Chapter 24 of the Internal Revenue Code of  
22 1986. It does not include an employee of a federal or state  
23 agency performing intelligence or counterintelligence functions,  
24 if the head of such agency has determined that reporting  
25 pursuant to Section 4 of this act with respect to the employee

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1 could endanger the safety of the employee or compromise an  
2 ongoing investigation or intelligence mission;

3 B. "employer" means the same as the term in Section  
4 3401(d) of the Internal Revenue Code of 1986 and includes any  
5 governmental entity and any labor organization; and

6 C. "labor organization" means the same as the term  
7 in Section 2(5) of the National Labor Relations Act and includes  
8 any entity which is used by the organization and an employer to  
9 carry out requirements described in Section 8(f)(3) of such act  
10 of an agreement between the organization and the employer.

11 Section 4. [NEW MATERIAL] STATE DIRECTORY OF NEW HIRES. --

12 A. The human services department, acting as the  
13 state's child support enforcement agency pursuant to Title IV-D  
14 of the Social Security Act, shall, not later than October 1,  
15 1997, establish an automated directory to be known as the state  
16 directory of new hires, which shall contain information supplied  
17 by employers on each newly hired or rehired employee.

18 B. The state directory of new hires shall use the  
19 information received to locate individuals for purposes of  
20 establishing paternity and establishing, modifying and enforcing  
21 child support obligations and may disclose such information to  
22 any agent of the state Title IV-D agency that is under contract  
23 with the agency to carry out such purposes.

24 C. All employers and labor organizations doing  
25 business in the state shall furnish to the state directory of

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1 new hires a report that contains the name, address and the  
2 social security number of each newly hired or rehired employee  
3 and the name and address of and identifying number assigned  
4 under Section 6109 of the Internal Revenue Code of 1986 to the  
5 employer.

6 D. An employer in the state who also employs persons  
7 in another state and who transmits reports magnetically or  
8 electronically must designate one state in which the employer  
9 has employees to which the employer will transmit the report.  
10 Any employer who transmits reports pursuant to this paragraph  
11 shall notify the state directory of new hires in writing as to  
12 which state such employer designates for the purpose of sending  
13 reports.

14 E. Any department, agency or instrumentality of the  
15 United States government shall comply with the provisions of  
16 this section by transmitting the report described in paragraph C  
17 of this section to the National Directory of New Hires.

18 F. Each employer and labor organization as defined  
19 above shall report to the state directory of new hires not later  
20 than twenty days after the date the employer hires the employee;  
21 or in the case of an employer transmitting reports magnetically  
22 or electronically, by two monthly transmissions if necessary not  
23 less than twelve days nor more than sixteen days apart.

24 G. Each report shall be made on a W-4 form or, at  
25 the option of the employer, an equivalent form and may be

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1 transmitted by first class mail, magnetically or electronically.

2 H. The labor department shall furnish to the state  
3 directory of new hires wage and claim information as defined in  
4 Section 303(h)(3) of the Social Security Act.

5 I. The department shall reimburse the labor  
6 department for all costs incurred in furnishing the information.  
7 The state directory of new hires shall make available to state  
8 public assistance agencies responsible for administering a  
9 program specified in Section 1137(b) of the Social Security Act  
10 information reported by employers for purposes of verifying  
11 eligibility for the program or investigating fraud.

12 J. The state directory of new hires shall make  
13 available to the state agencies operating employment security  
14 and workers' compensation programs access to information  
15 reported by employers for the purposes of administering such  
16 programs or investigating fraud.

17 Section 5. [NEW MATERIAL] PENALTIES. --The state Title  
18 IV-D agency shall impose a civil money penalty of twenty dollars  
19 (\$20.00) on employers for each instance of failure to comply  
20 with the provisions of this section, unless the failure is the  
21 result of a conspiracy between the employer and the employee to  
22 not supply the required report or to supply a false or  
23 incomplete report, in which case the penalty shall be five  
24 hundred dollars (\$500) on the employer for each instance.

25 Section 6. Section 40-4A-2 NMSA 1978 (being Laws 1985,

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1 Chapter 105, Section 2, as amended) is amended to read:

2 "40-4A-2. DEFINITIONS. --As used in the Support Enforcement  
3 Act:

4 A. "authorized quasi-judicial officer" means a  
5 person appointed by the court pursuant to rule 53(a) of the  
6 Rules of Civil Procedure for the District Courts;

7 B. "consumer reporting agency" means any person who,  
8 for monetary fees, dues or on a cooperative nonprofit basis,  
9 regularly engages in whole or in part in the practice of  
10 assembling or evaluating consumer credit information or other  
11 information on consumers for the purpose of furnishing consumer  
12 reports to third parties and who uses any means or facility of  
13 interstate commerce for the purpose of preparing or furnishing  
14 consumer reports;

15 C. "delinquency" means any payment under an order  
16 for support which has become due and is unpaid;

17 D. "department" means the human services department;

18 E. "income" means any form of periodic payment to an  
19 obligor, regardless of source, including but not limited to  
20 wages, salary, commission, compensation as an independent  
21 contractor, workers' compensation benefits, disability benefits,  
22 annuity and retirement benefits or other benefits, bonuses,  
23 interest or any other payments made by any person, but does not  
24 include:

25 (1) any amounts required by law to be withheld,

1 other than creditor claims, including but not limited to  
2 federal, state and local taxes, social security and other  
3 retirement and disability contributions;

4 (2) union dues;

5 (3) any amounts exempted by federal law; or

6 (4) public assistance payments;

7 F. "notice of delinquency" means the notice of  
8 delinquency as provided for in Section 40-4A-4 NMSA 1978;

9 G. "notice to withhold income" means a notice that  
10 requires the payor to withhold from the obligor money necessary  
11 to meet the obligor's duty under an order for support and, in  
12 the event of a delinquency, requires the payor to withhold an  
13 additional amount to be applied towards the reduction of the  
14 delinquency;

15 H. "obligor" means the person who owes a duty to  
16 make payments under an order for support;

17 I. "obligee" means any person who is entitled to  
18 receive support under an order for support or that person's  
19 legal representative;

20 J. "order for support" means any order which has  
21 been issued by any judicial, quasi-judicial or administrative  
22 entity of competent jurisdiction of any state and which order  
23 provides for:

24 (1) periodic payment of funds for the support  
25 of a child or a spouse;



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1 (2) modification or resumption of payment of  
2 support;

3 (3) payment of delinquency; or

4 (4) reimbursement of support;

5 K. "payor" means any person or entity who provides  
6 income to an obligor;

7 L. "person" means an individual, corporation,  
8 partnership, governmental agency, public office or other entity;  
9 and

10 M "public office" means the ~~[elected official or~~  
11 ~~state or local agency which is responsible by law for~~  
12 ~~enforcement or collection of payment under an order for support,~~  
13 ~~including but not limited to district attorneys, the department~~  
14 ~~and the clerk of the district court]~~ state disbursement unit of  
15 the department as defined in Section 454B of the Social Security  
16 Act. "

17 Section 7. Section 40-4A-4 NMSA 1978 (being Laws 1985,  
18 Chapter 105, Section 4) is amended to read:

19 "40-4A-4. NOTICE OF DELINQUENCY. --

20 A. ~~[When an obligor accrues a delinquency in an~~  
21 ~~amount equal to at least one month's support obligation, the~~  
22 ~~obligee or public office may prepare and serve upon the obligor~~  
23 ~~a copy of a verified notice of delinquency together with a form~~  
24 ~~petition to stay service of the notice to withhold income as~~  
25 ~~provided for in Section 7 of the Support Enforcement Act]~~ The

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1 income of a person with a support obligation imposed by a  
2 support order issued or modified in the state before October 1,  
3 1996, if not otherwise subject to withholding under Section  
4 40-4A-4.1 NMSA 1978, shall become subject to withholding as  
5 provided in Section 40-4A-4.1 NMSA 1978 if arrearages occur,  
6 without the need for a judicial or administrative hearing.

7 B. If the date upon which payment is due under an  
8 order for support is not stated in the order for support, the  
9 due date shall be deemed to be the last day of the month.

10 C. The notice of delinquency shall:

11 (1) recite those terms of the order for support  
12 which enumerate the support obligation;

13 (2) contain a current computation of the period  
14 and total amount of the delinquency;

15 (3) inform the obligor of the amount to be  
16 withheld;

17 (4) inform the obligor of the procedures  
18 available to avoid income withholding;

19 (5) state that, unless the obligor complies  
20 with the procedures to avoid income withholding, a notice to  
21 withhold income shall be served upon the payor;

22 (6) state that the notice to withhold income  
23 shall be applicable to any current or subsequent payor; and

24 (7) state the name and address of the public  
25 office to which withheld income shall be sent.

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1           D. The original notice of delinquency shall be filed  
2 with the clerk of the district court.

3           E. Service of the notice of delinquency upon the  
4 obligor shall be effected by sending [~~said~~] the notice by  
5 prepaid certified mail addressed to the obligor at his [~~or her~~]  
6 last known address or by any method provided by law for service  
7 of a summons. Proof of service shall be filed with the clerk of  
8 the district court."

9           Section 8. Section 40-4A-4.1 NMSA 1978 (being Laws 1990,  
10 Chapter 30, Section 1, as amended) is amended to read:

11           "40-4A-4.1. IMMEDIATE CHILD SUPPORT INCOME WITHHOLDING. --

12           A. In any judicial proceeding in which child support  
13 is ordered, modified or enforced and which proceeding is brought  
14 or enforced pursuant to Title IV-D of the Social Security Act  
15 [~~(42 U.S.C. 651 et seq.)~~] as provided in Section 27-2-27 NMSA  
16 1978, the income of the support obligor shall be subject to  
17 immediate income withholding regardless of the existence of any  
18 child support arrearage or delinquency. Effective January 1,  
19 1994, in proceedings in which child support services are not  
20 being provided pursuant to Title IV-D and the initial child  
21 support order is issued in the state on or after January 1,  
22 1994, the income of the support obligor shall be subject to  
23 immediate income withholding regardless of the existence of any  
24 child support arrearage or delinquency.

25           B. As part of the court or administrative order

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1 establishing, modifying or enforcing the child support  
2 obligation, the court shall issue the order to withhold.

3 C. The order to withhold shall state:

4 (1) the style, docket number and court having  
5 jurisdiction of the cause;

6 (2) the name, address and, if available, the  
7 social security number of the obligor;

8 (3) the amount and duration of the child  
9 support payments [~~and~~]. If any of the ordered amount is toward  
10 satisfaction of an arrearage or delinquency up to the date of  
11 the order, the amount payable to current and past-due support  
12 shall be specified, together with the total amount of the  
13 delinquency or arrearage, including judgment interest, if any;

14 (4) the name and date of birth of the child for  
15 whom support is ordered and the name of the obligee;

16 (5) the name and address of the person or  
17 agency to whom the payment is to be made, together with the  
18 agency's internal case number; and

19 (6) any other information deemed necessary to  
20 effectuate the order.

21 D. All Title IV-D and non-Title IV-D payments shall  
22 be made through the [~~appropriate public office as defined in the~~  
23 ~~Support Enforcement Act, with the exception of payments provided~~  
24 ~~pursuant to Title IV-D of the Social Security Act, which shall~~  
25 ~~be made directly to the department~~] public office.

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1           E. The maximum amount withheld pursuant to this  
2 section and any other garnishment shall not exceed fifty percent  
3 of the obligor's income.

4           F. The order of a withholding shall be mailed by the  
5 Title IV-D agency or the support obligee, obligee's attorney or  
6 court by certified mail to the payor. The payor shall pay over  
7 income as provided by and in compliance with the procedures of  
8 Section 40-4A-8 NMSA 1978.

9           G. The court may provide an exception to the  
10 immediate income withholding required by this section if it  
11 finds good cause for not ordering immediate withholding. The  
12 burden shall be on the party claiming good cause to raise the  
13 issue and demonstrate the existence of good cause to the court.  
14 In the event of a finding of good cause, the court shall make a  
15 written finding in the order specifying the reasons or  
16 circumstances justifying the good-cause exception and why income  
17 withholding would not be in the best interest of the child. If  
18 the order is one modifying a support obligation and immediate  
19 income withholding is not ordered, the order [~~must~~] shall  
20 include a finding that the obligor has timely paid support in  
21 the past. The order shall provide that the obligor shall be  
22 subject to withholding if a one-month support delinquency  
23 accrues.

24           H. The court shall make an exception to the  
25 immediate income withholding required by this section if the

1 parties to the proceeding enter into a written agreement  
2 providing for alternative means of satisfying the child support  
3 obligation. Such an agreement shall be incorporated into the  
4 order of the court. For the purposes of this subsection, the  
5 support obligee shall be considered to be the department in the  
6 case of child support obligations that the state is enforcing  
7 pursuant to an assignment of support rights to it as a condition  
8 of the assignor's receipt of public assistance. The agreement  
9 shall contain the signatures of a representative of the  
10 department and the custodial parent.

11 I. Notwithstanding the provisions of Subsection G of  
12 this section, immediate income withholding shall take place if  
13 the child support obligor so requests. The notice to withhold  
14 shall be filed with the clerk of the district court and the  
15 requirements of Subsection C of this section, Subsections D, E  
16 and F of Section 40-4A-5 and Sections 40-4A-6, 40-4A-8, 40-4A-10  
17 and 40-4A-11 NMSA 1978 shall apply.

18 J. A court shall order a wage withholding effective  
19 on the date on which a custodial parent requests such  
20 withholding to begin if the court determines, in accordance with  
21 such procedures and standards as it may establish, that the  
22 request should be approved, notwithstanding:

23 (1) the absence of a support delinquency of at  
24 least one month;

25 (2) a finding of good cause under Subsection G

1 of this section; or

2 (3) an agreement under Subsection H of this  
3 section.

4 K. The standards and procedures established for  
5 purposes of Subsection J of this section shall provide for the  
6 protection of the due process rights of the absent parent,  
7 appropriate notices and the right to a hearing under the Support  
8 Enforcement Act.

9 L. Wages not subject to withholding under Subsection  
10 J of this section shall still be subject to withholding on an  
11 earlier date as provided by law.

12 M Notwithstanding any other provision of this  
13 section, wages not subject to withholding because of a finding  
14 of good cause under Subsection G of this section shall not be  
15 subject to withholding at the request of a custodial parent  
16 unless the court changes its determination of good cause not to  
17 initiate immediate wage withholding.

18 N. In the event a child support obligor accrues a  
19 delinquency in an amount equal to at least one month's support  
20 obligation and notwithstanding any previous agreement or court  
21 finding to the contrary, income withholding shall issue against  
22 the support obligor and the procedures set out in Section  
23 40-4A-4 NMSA 1978 shall be followed. Such withholding shall  
24 terminate only upon the termination of all obligations imposed  
25 by the order of support and payment in full of all enforceable

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1 child support delinquencies. "

2 Section 9. Section 40-4A-8 NMSA 1978 (being Laws 1985,  
3 Chapter 105, Section 8, as amended) is amended to read:

4 "40-4A-8. DUTIES OF PAYOR. --

5 A. Any payor who has been served with a notice to  
6 withhold income shall deduct and pay over income as provided in  
7 this section. The payor shall deduct the amount designated in  
8 the notice to withhold income no later than the next payment of  
9 income that is payable to the obligor after expiration of  
10 fourteen days following service of the notice to withhold income  
11 and shall pay the amount withheld [~~to the designated public~~  
12 ~~office on the date payment otherwise would have been made to the~~  
13 ~~obligor~~] to the public office within seven business days. For  
14 each withholding of income, the payor shall be entitled to and  
15 may deduct a one dollar (\$1.00) fee to be taken from the income  
16 to be paid to the obligor.

17 B. Whenever the obligor is no longer receiving  
18 income from the payor, the payor shall notify the [~~designated~~]  
19 public office, and the payor shall inform the obligee and public  
20 office of the last known address of the obligor and any  
21 subsequent payor, if known.

22 C. Withholding of income under the Support  
23 Enforcement Act shall have priority over any other legal process  
24 under the laws of this state against the same income. Where  
25 there is more than one order for withholding against a single



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1 obligor pursuant to the Support Enforcement Act, the orders  
2 shall receive priority in payment according to the date of  
3 service on the payor, subject to any contrary directive  
4 established pursuant to Subsection D of Section 40-4A-9 NMSA  
5 1978.

6 D. No payor shall discharge, discipline, refuse to  
7 hire or otherwise penalize any obligor because of the duty to  
8 withhold income.

9 E. The payor shall terminate or modify withholding  
10 within fourteen days of receipt of a conformed copy of a notice  
11 to terminate or modify a withholding.

12 F. Any order or notice for income withholding made  
13 pursuant to Section 40-4A-4.1 or 40-4A-5 NMSA 1978 shall be  
14 binding against future payors by operation of law upon actual  
15 knowledge of the contents of the order or notice or upon receipt  
16 by personal delivery or certified mail of a filed copy of the  
17 order or notice to the payor."

18 Section 10. Section 40-4A-11 NMSA 1978 (being Laws 1985,  
19 Chapter 105, Section 11) is amended to read:

20 "40-4A-11. PENALTIES. --If any person willfully fails to  
21 withhold or pay over income pursuant to the Support Enforcement  
22 Act, willfully discharges, disciplines, refuses to hire or  
23 otherwise penalizes an obligor as prohibited by Subsection [E] D  
24 of Section [~~8 of that act~~] 40-4A-8 NMSA 1978, or otherwise fails  
25 to comply with any duty imposed by that act, the court, upon due

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1 notice and hearing:

2 A. shall [~~enter judgment~~] impose a fine against the  
3 payor for the total amount that the payor willfully failed to  
4 withhold or pay over;

5 B. shall order reinstatement of or award damages to  
6 the obligor, or both, where the obligor has been discharged,  
7 disciplined or otherwise penalized by the payor; or

8 C. may take such other action, including action for  
9 contempt of court, as may be appropriate. "

10 Section 11. [NEW MATERIAL] LOCATOR INFORMATION FROM  
11 INTERSTATE NETWORKS. --The state Title IV-D agency is authorized  
12 to have access to any system used by the state to locate an  
13 individual for purposes relating to motor vehicle or law  
14 enforcement.

15 Section 12. [NEW MATERIAL] COLLECTION AND USE OF SOCIAL  
16 SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT. --

17 A. The state ~~must~~ have and use procedures requiring  
18 that the social security number of:

19 (1) any applicant for a professional license,  
20 commercial driver's license, occupational license or ~~marriage~~  
21 license be recorded on the application;

22 (2) any person who is subject to a divorce  
23 decree, support order or paternity determination or  
24 acknowledgment be placed in the records relating to the ~~matter~~;  
25 and

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1                   (3) any person who has died be placed in the  
2 records relating to the death and be recorded on the death  
3 certificate.

4                   B. The collection and use of social security numbers  
5 shall be made available to the state Title IV-D agency for use  
6 in child support enforcement.

7                   Section 13. [NEW MATERIAL] EXPEDITED PROCEDURE. -- The  
8 state Title IV-D agency shall have the authority to take the  
9 following actions relating to establishment of paternity or to  
10 establishment, modification or enforcement of support orders,  
11 without the necessity of obtaining an order from any other  
12 judicial or administrative tribunal, and to recognize and  
13 enforce the authority of state Title IV-D agencies of other  
14 states to take the following actions:

15                   A. to order genetic testing for the purpose of  
16 paternity establishments;

17                   B. to subpoena any financial or other information  
18 needed to establish, modify or enforce a support order and to  
19 impose penalties for failure to respond to such a subpoena;

20                   C. to require all entities in the state, including  
21 for-profit, non-profit and governmental employers to provide  
22 promptly, in response to a request by the state Title IV-D  
23 agency of that or any other state administering a program under  
24 this part, information on the employment compensation, and  
25 benefits of any person employed by such entity as an employee or

1 contractor and to sanction failure to respond to any such  
2 request;

3 D. to obtain access, subject to safeguards on  
4 privacy and information security, and subject to the  
5 nonliability of entities that afford such access, to information  
6 contained in the following records, including automated access  
7 in the case of records maintained in automated databases:

8 (1) records of other states and local  
9 government agencies, including:

10 (a) vital statistics, including records  
11 of marriage, birth and divorce;

12 (b) state and local tax and revenue  
13 records, including information on residence address, employer,  
14 income and assets;

15 (c) records concerning real and titled  
16 personal property;

17 (d) records of occupational and  
18 professional licenses and records concerning the ownership and  
19 control of corporations, partnerships and other business  
20 entities;

21 (e) employment security records;

22 (f) records of agencies administering  
23 public assistance programs;

24 (g) records of the motor vehicle  
25 division; and

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1 (h) corrections records; and  
2 (2) certain records held by private entities  
3 with respect to persons who owe or are owed support, or against  
4 or with respect to whom a support obligation is sought,  
5 consisting of:

6 (a) the names and addresses of such  
7 persons and the names and addresses of the employers of such  
8 persons, as appearing in customer records of public utilities  
9 and cable television companies, pursuant to an administrative  
10 subpoena; and

11 (b) information including information on  
12 assets and liabilities on such individuals held by financial  
13 institutions;

14 E. in cases in which support is subject to an  
15 assignment in order to comply with a requirement imposed  
16 pursuant to temporary assistance for needy families or medicaid,  
17 or to a requirement to pay through the state disbursement unit  
18 established pursuant to Section 454B of the Social Security Act,  
19 upon providing notice to obligor and obligee to direct the  
20 obligor or other payor to change the payee to the appropriate  
21 government entity;

22 F. to order income withholding;

23 G. in cases in which there is a support arrearage,  
24 to secure assets to satisfy the arrearage by:

25 (1) intercepting or seizing periodic or lump-

1 sum payments from:

2 (a) a state or local agency, including  
3 unemployment compensation, workers' compensation and other  
4 benefits; and

5 (b) judgments, settlements and lotteries;

6 (2) attaching and seizing assets of the obligor  
7 held in financial institutions;

8 (3) attaching public and private retirement  
9 funds; and

10 (4) imposing liens and, in appropriate cases,  
11 to force sale of property and distribution of proceeds;

12 H. for the purpose of securing overdue support, to  
13 increase the amounts for arrearages, subject to such conditions  
14 or limitations as the state Title IV-D agency may provide. Such  
15 procedures shall be subject to due process safeguards, including  
16 as appropriate requirements for notice, opportunity to contest  
17 the action and opportunity for an appeal on the record to an  
18 independent administrative or judicial tribunal;

19 I. the expedited procedures required shall include  
20 the following rules and authority, applicable with respect to  
21 all proceedings to establish paternity or to establish, modify  
22 or enforce support orders:

23 (1) each party to any paternity or child  
24 support proceeding is required, subject to privacy safeguards,  
25 to file with the tribunal and the state case registry upon entry

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1 of an order, and to update, as appropriate, information on  
2 location and identity of the party, including social security  
3 number, residential and mailing addresses, telephone number and  
4 driver's license number, and name, address and telephone number  
5 of employer; and

6 (2) in any subsequent child support enforcement  
7 action between the parties, upon sufficient showing that  
8 diligent effort has been made to ascertain the location of such  
9 a party, the tribunal may deem state due process requirements  
10 for notice and service of process to be met with respect to the  
11 party, upon delivery of written notice to the most recent  
12 residential or employer address filed with the tribunal; and

13 J. procedures under which:

14 (1) the state agency and administrative or  
15 judicial tribunal with authority to hear child support and  
16 paternity cases exerts statewide jurisdiction over the parties;  
17 and

18 (2) in a state in which orders are issued by  
19 courts or administrative tribunals, a case may be transferred  
20 between local jurisdictions in the state without need for any  
21 additional filing by the petitioner, or service of process upon  
22 the respondent, to retain jurisdiction over the parties.

23 Section 14. Section 40-11-5 NMSA 1978 (being Laws 1986,  
24 Chapter 47, Section 5, as amended) is amended to read:

25 "40-11-5. PRESUMPTION OF PATERNITY. --

1           A. A man is presumed to be the natural father of a  
2 child if:

3                   (1) he and the child's natural mother are or  
4 have been married to each other and the child is born during the  
5 marriage or within three hundred days after the marriage is  
6 terminated by death, annulment, declaration of invalidity or  
7 dissolution of marriage or after a decree of separation is  
8 entered by a court;

9                   (2) before the child's birth, he and the  
10 child's natural mother have attempted to marry each other by a  
11 marriage solemnized in apparent compliance with law, although  
12 the attempted marriage is or could be declared invalid, and:

13                           (a) if the attempted marriage could be  
14 declared invalid only by a court, the child is born during the  
15 attempted marriage or within three hundred days after its  
16 termination by death, annulment, declaration of invalidity or  
17 divorce; or

18                           (b) if the attempted marriage is invalid  
19 without a court order, the child is born within three hundred  
20 days after the termination of cohabitation;

21                   (3) after the child's birth, he and the child's  
22 natural mother have married or attempted to marry each other by  
23 a marriage solemnized in apparent compliance with law, although  
24 the attempted marriage is or could be declared invalid, and:

25                           (a) he has acknowledged his paternity of



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1 the child in writing filed with the vital statistics bureau of  
2 the public health division of the department of health;

3 (b) with his consent, he is named as the  
4 child's father on the child's birth certificate; or

5 (c) he is obligated to support the child  
6 under a written voluntary promise or by court order;

7 (4) while the child is under the age of  
8 majority, he openly holds out the child as his natural child and  
9 has established a personal, financial or custodial relationship  
10 with the child; or

11 (5) he acknowledges his paternity of the child  
12 pursuant to Section 24-14-13 NMSA 1978 or in writing filed with  
13 the vital statistics bureau of the public health division of the  
14 department of health, which shall promptly inform the mother of  
15 the filing of the acknowledgment, and, within a reasonable time  
16 after being informed of the filing, she does not dispute the  
17 acknowledgment. In order to enforce the rights of custody or  
18 visitation, a man presumed to be the father as a result of  
19 filing a written acknowledgment shall seek an appropriate  
20 judicial order in an action filed for that purpose. A signed  
21 voluntary acknowledgment of paternity is considered a legal  
22 finding of paternity, subject to the right of any signatory to  
23 rescind the acknowledgment within the earlier of:

24 (a) sixty days; or

25 (b) the date of an administrative or

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1 judicial proceeding relating to the child, including a  
2 proceeding to establish a support order, to which the signatory  
3 is a party. After sixty days the acknowledgment may be  
4 challenged in court only on the grounds of fraud, duress or  
5 material mistake or fact, although legal responsibilities  
6 arising from signing the acknowledgment may not be suspended  
7 during the challenge, except upon a showing of good cause.  
8 Judicial or administrative proceedings are not required to  
9 ratify an unchallenged acknowledgment.

10 B. If two or more men are presumed under this  
11 section to be the child's father, an acknowledgment by one of  
12 them may be effective only with the written consent of the other  
13 or pursuant to Subsection C of this section.

14 C. A presumption under this section may be rebutted  
15 in an appropriate action only by clear and convincing evidence.  
16 If two or more men are presumed under this section to be the  
17 father of the same child, paternity shall be established as  
18 provided in the Uniform Parentage Act. If the presumption has  
19 been rebutted with respect to one man, paternity of the child by  
20 another man may be determined in the same action if he has been  
21 made a party.

22 D. A man is presumed to be the natural father of a  
23 child if, pursuant to blood or genetic tests properly performed  
24 by a qualified [~~individual~~] person and evaluated by an expert,  
25 including deoxyribonucleic acid (DNA) probe technique tests

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1 under the Uniform Parentage Act, the probability of his being  
2 the father is ninety-nine percent or higher.

3 E. The voluntary acknowledgment of paternity must be  
4 recognized as a basis for seeking a support order without  
5 requiring any further proceedings to establish paternity.

6 F. Full faith and credit must be given to  
7 determination of paternity made by other states, including  
8 acknowledgments of paternity."

9 Section 15. Section 40-11-12 NMSA 1978 (being Laws 1986,  
10 Chapter 47, Section 12, as amended) is amended to read:

11 "40-11-12. ~~[BLOOD]~~ GENETIC TESTS. --

12 A. The court may, and upon request of a party shall,  
13 require the child, mother or alleged father to submit to blood  
14 or genetic tests, including deoxyribonucleic acid (DNA) probe  
15 technique tests.

16 B. The court, upon reasonable request by a party,  
17 shall order that independent tests be performed by other experts  
18 qualified as examiners of blood types or qualified as experts in  
19 the administration of genetic tests, including deoxyribonucleic  
20 acid (DNA) probe technique tests.

21 C. In all cases, the court shall determine the  
22 number and qualifications of the experts. This accreditation of  
23 the testing facility must be admissible without the need for  
24 foundation testimony or other proof of authenticity or accuracy  
25 unless an objection has been made in writing not later than

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1 twenty days before a hearing on the testing results.

2 D. If a putative father refuses to comply with an  
3 order for testing pursuant to this section, the court [~~may~~]  
4 shall enter a judgment of parentage against him.

5 E. If the mother refuses to comply with an order for  
6 testing pursuant to this section, the court may dismiss the case  
7 without prejudice. "

8 Section 16. Section 40-11-14 NMSA 1978 (being Laws 1986,  
9 Chapter 47, Section 14) is amended to read:

10 "40-11-14. CIVIL ACTION. --

11 A. An action under the Uniform Parentage Act is a  
12 civil action governed by the rules of civil procedure. Jury  
13 trial is not available in actions to establish parentage. The  
14 mother of the child and the alleged father are competent to  
15 testify and may be compelled to testify.

16 B. Testimony relating to sexual access to the mother  
17 by an unidentified man at any time or by an identified man at a  
18 time other than the probable time of conception is inadmissible  
19 in evidence, unless offered by the mother.

20 C. In an action against an alleged father, evidence  
21 offered by him with respect to a man who is not subject to the  
22 jurisdiction of the court concerning his sexual intercourse with  
23 the mother at or about the probable time of conception of the  
24 child is admissible in evidence only if the alleged father has  
25 undergone and made available to the court blood tests, the

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1 results of which do not exclude the possibility of his paternity  
2 of the child.

3 D. A default order must be entered upon a showing of  
4 service of process on the defendant or any other showing  
5 required by state law."

6 Section 17. Section 40-11-15 NMSA 1978 (being Laws 1986,  
7 Chapter 47, Section 15, as amended) is amended to read:

8 "40-11-15. JUDGMENT OR ORDER. --

9 A. The judgment or order of the court determining  
10 the existence or nonexistence of the parent and child  
11 relationship is determinative for all purposes.

12 B. If the judgment or order of the court is at  
13 variance with the child's birth certificate, the court shall  
14 order that a new birth certificate be issued.

15 C. The judgment or order may contain any other  
16 provision directed against or on behalf of the appropriate party  
17 to the proceeding concerning the duty of past and future  
18 support, the custody and guardianship of the child, visitation  
19 with the child, the furnishing of bond or other security for the  
20 payment of the judgment or any other matter within the  
21 jurisdiction of the court. The judgment or order may direct the  
22 father to pay the reasonable expenses of the mother's pregnancy,  
23 birth and confinement. The court shall order child support  
24 retroactive to the date of the child's birth pursuant to the  
25 provisions of Sections 40-4-11 through 40-4-11.3 NMSA 1978.

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1           D. Support judgments or orders ordinarily shall be  
2 for periodic payments which may vary in amount. In the best  
3 interest of the child, a lump-sum payment or the purchase of an  
4 annuity may be ordered in lieu of periodic payments of support;  
5 provided, however, a lump-sum payment shall not thereafter  
6 deprive a state agency of its right to reimbursement from an  
7 appropriate party should the child become a recipient of public  
8 assistance.

9           E. In determining the amount to be paid by a parent  
10 for support of the child [~~or children~~], a court, child support  
11 hearing officer or master shall make such determination in  
12 accordance with the provisions of the child support guidelines  
13 of Section 40-4-11.1 NMSA 1978.

14           F. Bills for pregnancy, childbirth and genetic  
15 testing are admissible as evidence without requiring third-party  
16 foundation testimony and constitute prima facie evidence of  
17 amounts incurred.

18           G. Temporary support may be ordered, pending  
19 adjudication of paternity, if there is clear and convincing  
20 evidence of paternity on the basis of genetic testing or other  
21 evidence."

22           Section 18. Section 40-4-11.5 NMSA 1978 (being Laws 1990,  
23 Chapter 58, Section 2) is amended to read:

24           "40-4-11.5. MODIFICATION OF CHILD SUPPORT ORDERS IN CASES  
25 ENFORCED BY THE STATE TITLE IV-D AGENCY. --

1           A. For child support cases being enforced by the  
2 human services department acting as the state's Title IV-D child  
3 support enforcement agency as provided in Section 27-2-27 NMSA  
4 1978, the department shall implement a process for the periodic  
5 review of child support orders that shall include:

6                   (1) a review of [all orders at least every  
7 thirty-six months] support orders every three years upon the  
8 request of either the obligor or obligee or, if there is an  
9 assignment of support rights pursuant to the public assistance  
10 act, upon the request of the department or of either the obligor  
11 or obligee;

12                   (2) notification by the department of its  
13 review to the obligor and obligee; and

14                   (3) authorization to require financial  
15 information from the obligor and the obligee to determine  
16 whether the support obligation should be presented to the court  
17 for modification.

18           B. In carrying out its duties under this section,  
19 the secretary of human services, or the secretary's authorized  
20 representative, has the power to issue subpoenas:

21                   (1) to compel the attendance of the obligor or  
22 the obligee at a hearing on the child support order;

23                   (2) to compel production by the obligor or the  
24 obligee of financial or wage information, including federal or  
25 state tax returns;

1 (3) to compel the obligor or the obligee to  
2 disclose the location of employment of the payor party; and

3 (4) to compel the employer of the obligor or  
4 the obligee to disclose information relating to the employee's  
5 wages.

6 C. A subpoena issued by the human services  
7 department under this section shall state with reasonable  
8 certainty the nature of the information required, the time and  
9 place where the information shall be produced, whether the  
10 subpoena requires the attendance of the person subpoenaed or  
11 only the production of information and records and the  
12 consequences of failure to obey the subpoena.

13 D. A subpoena issued by the human services  
14 department under this section shall be served upon the person to  
15 be subpoenaed or, at the option of the secretary or the  
16 secretary's authorized representative, by certified mail  
17 addressed to the person at his last known address. The service  
18 of the subpoena shall be at least ten days prior to the required  
19 production of the information or the required appearance. If  
20 the subpoena is served by certified mail, proof of service is  
21 the affidavit of mailing. After service of a subpoena upon a  
22 person, if the person neglects or refuses to comply with the  
23 subpoena, the department may apply to the district court of the  
24 county where the subpoena was served or the county where the  
25 subpoena was responded to for an order compelling compliance.



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1 Failure of the person to comply with the district court's order  
2 shall be punishable as contempt.

3 E. If a review by the human services department  
4 results in a finding that a child support order should be  
5 modified in accordance with the guidelines, it should be  
6 presented to the court for modification and the obligor and the  
7 obligee shall be notified of their respective rights and shall  
8 have thirty days to respond to the department's finding. The  
9 right to seek modification shall rest with the department in the  
10 case of obligations being enforced as a result of a public  
11 assistance recipient's assignment of support rights to the state  
12 as provided in the Social Security Act, 42 U.S.C. 602(a)(26).

13 F. At the request of the obligor or the obligee or  
14 upon the filing of a motion to modify child support, the human  
15 services department shall furnish any information it has  
16 obtained in its review process regarding wages or other  
17 information pertaining to the obligor or the obligee.

18 G. Nothing in this section shall be construed to  
19 restrict the right of either party to petition the court to  
20 modify a child support obligation. The human services  
21 department shall not be required to conduct a review of any  
22 party's obligation more than once every three years. "

23 Section 19. [NEW MATERIAL] WORK REQUIREMENT FOR PERSONS  
24 OWING PAST-DUE CHILD SUPPORT. --The state Title IV-D agency must  
25 have and use procedures under which the state has the authority,

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1 in any case in which an individual owes past-due support with  
2 respect to a child receiving assistance under a state program  
3 funded under temporary assistance for needy families, to issue  
4 an order or to request that a court or an administrative process  
5 established pursuant to state law issue an order that requires  
6 the individual to:

7 A. pay such support in accordance with a plan  
8 approved by the court, or at the option of the state, a plan  
9 approved by the state IV-D agency; or

10 B. if the individual is subject to such a plan and  
11 is not incapacitated, participate in such work activities as the  
12 court, or at the option of the state, the state IV-D agency,  
13 deems appropriate.

14 Section 20. Section 40-4A-15 NMSA 1978 (being Laws 1985,  
15 Chapter 105, Section 17) is amended to read:

16 "40-4A-15. CONSUMER REPORTING AGENCIES. --At the request of  
17 a consumer reporting agency, as defined in Section 603(f) of the  
18 Fair Credit Reporting Act, 15 USC 1681(a)(f), and upon thirty  
19 days' advance notice to the obligor, the department, in  
20 accordance with its regulations, may release information  
21 regarding the delinquency of an obligor [~~if the delinquency of~~  
22 ~~the obligor exceeds one thousand dollars (\$1,000)~~]. The  
23 department may charge a reasonable fee to the consumer reporting  
24 agency. "

25 Section 21. [NEW MATERIAL] LIENS. --The state Title IV-D

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1 agency must have and use procedures under which:

2 A. liens arise by operation of law against real and  
3 personal property for amounts of overdue support owed by a  
4 noncustodial parent who resides or owns property in the state;  
5 and

6 B. the state courts and tribunals accord full faith  
7 and credit to liens arising in another state, when the state  
8 IV-D agency, party, or other entity seeking to enforce such a  
9 lien complies with the procedural rules relating to recording or  
10 serving liens that arise within the state, except that such  
11 rules may not require judicial notice or hearing prior to the  
12 enforcement of such a lien.

13 Section 22. Section 40-5A-2 NMSA 1978 (being Laws 1995,  
14 Chapter 25, Section 2) is amended to read:

15 "40-5A-2. PURPOSE. -- The purpose of the Parental  
16 Responsibility Act is:

17 A. to require parents to eliminate child support  
18 arrears in order to maintain a professional, [or an]  
19 occupational or recreational license, including but not limited  
20 to a hunting, fishing or trapping license, and a driver's  
21 license; and

22 B. to require compliance with after receiving  
23 appropriate notice, subpoenas or warrants relating to paternity  
24 or child support, which will subsequently reduce both the number  
25 of children in New Mexico who live at or below the poverty level

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1 and the financial obligation that falls to the state when  
2 parents do not provide for their minor children. "

3 Section 23. Section 40-5A-3 NMSA 1978 (being Laws 1995,  
4 Chapter 25, Section 3) is amended to read:

5 "40-5A-3. DEFINITIONS. --As used in the Parental  
6 Responsibility Act:

7 A. "applicant" means an obligor who is applying for  
8 issuance of a license;

9 B. "board" means:

10 (1) the construction industries commission, the  
11 construction industries division and the electrical bureau,  
12 mechanical bureau and general construction bureau of the  
13 construction industries division of the regulation and licensing  
14 department;

15 (2) the manufactured housing committee and  
16 manufactured housing division of the regulation and licensing  
17 department;

18 (3) a board, commission or agency that  
19 administers a [~~professional~~] profession or occupation licensed  
20 pursuant to Chapter 61 NMSA 1978;

21 (4) any other state agency to which the Uniform  
22 Licensing Act is applied by law; [~~or~~]

23 (5) a licensing board or other authority that  
24 issues a license, certificate, registration or permit to engage  
25 in a profession or occupation regulated in New Mexico;

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1                   (6) the department of game and fish; or  
2                   (7) motor vehicle division of the taxation and  
3 revenue department;

4                   C. "certified list" means a verified list that  
5 includes the names, social security numbers and last known  
6 addresses of obligors not in compliance with a judgment and  
7 order for support;

8                   D. "compliance" means that:

9                   (1) an obligor is no more than thirty days in  
10 arrears in payment of amounts required to be paid pursuant to an  
11 outstanding judgment and order for support; and

12                   (2) an obligor has, after receiving appropriate  
13 notice, complied with subpoenas or warrants relating to  
14 paternity or child support proceedings;

15                   E. "department" means the human services department;

16                   F. "judgment and order for support" means the  
17 judgment entered against an obligor by the district court or a  
18 tribal court in a case brought by the department pursuant to  
19 Title IV-D of the Social Security Act;

20                   G. "license" means a license, certificate,  
21 registration or permit issued by a board that a person is  
22 required to have to engage in a profession or occupation in New  
23 Mexico and includes a commercial driver's license, driver's  
24 license and recreational licenses, including but not limited to  
25 hunting, fishing or trapping licenses;

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1 H. "licensee" means an obligor to whom a license has  
2 been issued; and

3 I. "obligor" means the person who has been ordered  
4 to pay child or spousal support pursuant to a judgment and order  
5 for support."

6 Section 24. Section 40-5A-4 NMSA 1978 (being Laws 1995,  
7 Chapter 25, Section 4) is amended to read:

8 "40-5A-4. APPLICATION FOR LICENSE. --A person who submits  
9 an application for a license issued by a board is not eligible  
10 for issuance of the license if he is not in compliance with a  
11 judgment and order for support or subpoenas or warrants relating  
12 to paternity or child support proceedings. A board that denies  
13 or proposes to deny the application on the grounds that he is  
14 not in compliance with a judgment and order for support or  
15 subpoenas or warrants relating to paternity or child support  
16 proceedings shall advise the applicant in writing of the grounds  
17 for denial of his application and his right, if any, to a  
18 hearing. The applicant shall have a right to a hearing if,  
19 pursuant to applicable law governing hearings, the denial of  
20 [~~his~~] the application on other grounds would have entitled [~~his~~]  
21 the applicant to a hearing. The application shall be reinstated  
22 if, within thirty days of the date of the notice, the applicant  
23 provides the board with a certified statement from the  
24 department that he is in compliance with a judgment and order  
25 for support or subpoenas or warrants relating to paternity or

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1 child support proceedings. "

2 Section 25. Section 40-5A-5 NMSA 1978 (being Laws 1995,  
3 Chapter 25, Section 5) is amended to read:

4 "40-5A-5. RENEWAL OF LICENSE. --A licensee who seeks  
5 renewal of his license from a board is not eligible to have the  
6 license renewed if he is not in compliance with a judgment and  
7 order for support or subpoenas or warrants relating to paternity  
8 or child support proceedings. A board that denies or proposes  
9 to deny the renewal of a license on the grounds that the  
10 licensee is not in compliance with a judgment and order for  
11 support or subpoenas or warrants relating to paternity or child  
12 support proceedings shall advise the licensee in writing of the  
13 grounds for the denial or proposed denial and his right to a  
14 hearing. The licensee shall have a right to a hearing on the  
15 denial of the renewal of his license pursuant to the applicable  
16 law governing hearings [~~for his profession or occupation~~]. The  
17 application for renewal shall be reinstated if, within thirty  
18 days of the date of the notice, the licensee provides the board  
19 with a certified statement from the department that he is in  
20 compliance with a judgment and order for support or subpoenas or  
21 warrants relating to paternity or child support proceedings. "

22 Section 26. Section 40-5A-6 NMSA 1978 (being Laws 1995,  
23 Chapter 25, Section 6) is amended to read:

24 "40-5A-6. SUSPENSION OR REVOCATION OF LICENSE. --The  
25 failure of a licensee to be in compliance with a judgment and

1 order for support or subpoena or warrants relating to paternity  
2 or child support proceedings is grounds for suspension or  
3 revocation of a license. The proceeding shall be conducted by  
4 [the] a board pursuant to the law governing suspension and  
5 revocation proceedings for [~~his profession or occupation~~] the  
6 license. "

7 Section 27. Section 40-5A-7 NMSA 1978 (being Laws 1995,  
8 Chapter 25, Section 7) is amended to read:

9 "40-5A-7. CERTIFIED LISTS. --The department shall provide  
10 each board with a certified list of obligors not in compliance  
11 with a judgment and order for support or subpoenas or warrants  
12 relating to paternity or child support proceedings within ten  
13 calendar days after the first day of each month. By the end of  
14 the month in which the certified list is received, [the] each  
15 board shall report to the department the names of applicants and  
16 licensees [~~of the board~~] who are on the list and the action the  
17 board has taken in connection with such applicants and  
18 licensees. "

19 Section 28. Section 40-5A-10 NMSA 1978 (being Laws 1995,  
20 Chapter 25, Section 10) is amended to read:

21 "40-5A-10. ACTION BY SUPREME COURT. --The supreme court  
22 shall adopt by order rules for the denial of applications or  
23 licensing and renewal of licenses and for the suspension or  
24 revocation of licenses of lawyers and other persons licensed by  
25 the supreme court for the failure of an applicant or licensee to



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1 be in compliance with a judgment and order for support or  
2 subpoenas or warrants relating to paternity or child support  
3 proceedings and may delegate the enforcement of the rules to a  
4 board under its supervision. "

5 Section 29. Section 40-5A-13 NMSA 1978 (being Laws 1995,  
6 Chapter 25, Section 13) is amended to read:

7 "40-5A-13. ANNUAL REPORT. --The department shall report to  
8 the governor and the legislature by December 1 of each year on  
9 the progress of child support enforcement measures, including:

10 A. the number of delinquent obligors certified by  
11 the department;

12 B. the number of obligors who also were licensees or  
13 applicants subject to the provisions of the Parental  
14 Responsibility Act;

15 C. the number of licenses that were suspended or  
16 revoked by each board, the number of new licenses and renewals  
17 that were delayed or denied by each board and the number of  
18 licenses and renewals that were granted following an applicant's  
19 compliance with a judgment and order for support or subpoenas or  
20 warrants relating to paternity or child support proceedings; and

21 D. the costs incurred in the implementation and  
22 enforcement of the Parental Responsibility Act. "

23 Section 30. [NEW MATERIAL] FINANCIAL INSTITUTION DATA  
24 MATCHES. --

25 A. "Financial institution" means:

1 (1) a depository institution, as defined in  
2 section 3(c) of the Federal Deposit Insurance Act  
3 (12 U.S.C. 1813(c));

4 (2) an institution-affiliated party, as defined  
5 in section 3(u) of such act (12 U.S.C. 1813(u));

6 (3) any federal credit union or state credit  
7 union, as defined in section 101 of the Federal Credit Union Act  
8 (12 USC 1752), including an institution-affiliated party of such  
9 a credit union, as defined section 206(r) of such act  
10 (12 U.S.C. 1786(r)); and

11 (4) any benefit association, insurance company,  
12 safe deposit company, money-market mutual fund or similar entity  
13 authorized to do business in the state.

14 B. "Account" means a demand deposit account,  
15 checking or negotiable withdrawal order account, savings  
16 account, time deposit account or money-market mutual fund  
17 account.

18 C. "Past-due support" means the amount of support  
19 determined under a court order or an order of an administrative  
20 process established under state law for support and maintenance  
21 of a child or of a child and the parent with whom the child is  
22 living, which has not been paid.

23 D. The human services department, acting as the  
24 state's child support enforcement agency pursuant to Title IV-D  
25 of the Social Security Act, shall enter into agreements with

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1 financial institutions doing business in the state to develop  
2 and operate, in coordination with such financial institutions, a  
3 data match system, using automated data exchanges to the maximum  
4 extent feasible, in which each such financial institution is  
5 required to provide the information.

6 E. The human services department shall establish  
7 standard procedures and formats for the financial institutions.  
8 Such procedures shall include administrative due process for  
9 child support obligors before funds or assets may be seized by  
10 the department.

11 F. Each financial institution in New Mexico shall  
12 provide to the human services department for each calendar  
13 quarter the name, record address, social security number or  
14 other taxpayer identification number and other identifying  
15 information for each noncustodial parent who maintains an  
16 account at such institution and who owes past-due support, as  
17 identified by the human services department, by name and social  
18 security number or other taxpayer identification number.

19 G. Upon receipt of a notice of lien or levy from the  
20 human services department, financial institutions shall encumber  
21 or surrender assets held by the institution on behalf of any  
22 noncustodial parent who is subject to a child support lien.

23 H. The human services department may establish and  
24 pay a reasonable fee to a financial institution for conducting  
25 the data match provided for in this act, not to exceed the

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1 actual costs incurred by such financial institutions.

2 I. A financial institution shall not be liable under  
3 any state law to any person for disclosing of information to the  
4 human services department under this section; or for freezing or  
5 surrendering any assets held by such financial institution in  
6 response to a notice of lien or seizure issued by the human  
7 services department, or for any other action taken in good faith  
8 to comply with the requirements of this section.

9 J. A state child support enforcement agency which  
10 obtains a financial record of a person from a financial  
11 institution may disclose such financial record only for the  
12 purpose of, and to the extent necessary in, establishing,  
13 modifying or enforcing a child support obligation of such  
14 person.

15 Section 31. [NEW MATERIAL] ENFORCEMENT OF ORDERS FOR  
16 HEALTH CARE. --All IV-D child support orders enforced shall  
17 include a provision for the health care coverage of the child,  
18 and in the case in which a noncustodial parent provides such  
19 coverage and changes employment and the new employer provides  
20 health care coverage, the state Title IV-D agency shall transfer  
21 notice of the provision to the employer, which notice shall  
22 operate to enroll the child in the noncustodial parent's health  
23 plan, unless the noncustodial parent successfully contests the  
24 notice.

25 Section 32. EMERGENCY. --It is necessary for the public

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1 peace, health and safety that this act take effect immediately.

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1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997  
3  
4

5 March 10, 1997  
6

7 Mr. President:  
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9 Your JUDICIARY COMMITTEE, to whom has been referred  
10

11 SENATE BILL 1162  
12

13 has had it under consideration and reports same with  
14 recommendation that it DO PASS.  
15

16 Respectfully submitted,  
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21 Fernando R. Macias, Chairman  
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25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

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Date \_\_\_\_\_

The roll call vote was 5 For 1 Against

Yes: 5

No: Vernon

Excused: Sanchez, Tsosie

Absent: None

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# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 19, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

SENATE BILL 1162

has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR SENATE  
BILL 1162

DO PASS.

Respectfully submitted,

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Thomas P. Foy, Chairman



FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Rios, Sanchez

Absent: None

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~~[bracketed material] = delete~~