

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A:17-56.26 et al

("Support  
Enforcement Act  
of 1985")

LAWS OF: 1985

CHAPTER: 278

Bill No: S2888

Sponsor(s): Lipman and Brown

Date Introduced: May 2, 1985

Committee: Assembly: Judiciary

Senate: Institutions, Health and Welfare

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: June 27, 1985

Senate: June 17, 1985

Date of Approval: August 8, 1985

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Following were printed:

Reports: Yes

Hearings: No

See newspaper clippings--attached:

(Over)

"Kean signs child support law", 8-10-85 Atlantic City Press.

"Child support delinquency needs tougher remedies" 8-7-85 Atlantic City Press.

"Child support system a failure..."8-15-85 Bergen Record.

"Courts... play tough..." 4-14-85 Star Ledger.

"New bill puts teeth in Child support law", 8-9-85 Trentonian.

Report, mentioned in clipping:

974.901 New Jersey. Commission on Child Support.  
C33 Findings and recommendations...  
1985 September 26, 1985. Trenton, 1985.

See also:

974.901 New Jersey. Commission on Child Support.  
C33 Findings and recommendations...  
second annual report...October, 1986.  
Trenton, 1986.

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[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 2888

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1985

By Senators LIPMAN and BROWN

Referred to Committee on Institutions, Health and Welfare

AN ACT concerning child support enforcement, revising parts of the statutory law and supplementing Title 2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Support  
2 Enforcement Act of 1985."

1 2. Section 2 of P. L. 1981, c. 417 (C. 2A:17-56.8) is amended to  
2 read as follows:

3 2. Every order of a court for alimony, maintenance or child  
4 support payments shall include a written notice to the [payer]  
5 obligor stating that the order [may] shall be enforced by an in-  
6 come [execution] withholding upon the [commissions, earnings,  
7 salaries, wages and other] current or future income due from the  
8 [payer's] obligor's employer or successor employers and upon the  
9 unemployment compensation benefits due the [payer] obligor and  
10 against debts, income, trust funds, profits or income from any  
11 other source due the [payer] obligor. *The court shall ensure that*  
12 *in the case of each obligor against whom a support order is or has*  
13 *been issued or modified, the obligor's income shall be withheld to*  
14 *comply with the order. An amount shall be withheld to pay the*  
15 *support obligation and it shall include an amount to be applied*  
16 *toward liquidation of arrearages reduced to judgments and pay-*  
17 *ments for paternity testing procedures. The income withholding*  
18 *provisions shall also be applicable to all orders issued on or before*  
19 *the effective date of this act.*

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

\*—Senate committee amendments adopted May 6, 1985.

\*\*—Assembly committee amendments adopted June 24, 1985.

1 3. Section 3 of P. L. 1981, c. 417 (C. 2A:17-56.9) is amended to  
2 read as follows:

3 3. **[The payee or the county agency administering Title IV-D of**  
4 **the federal Social Security Act on behalf of the payee, may apply**  
5 **to the county]** *The income withholding shall be initiated by the*  
6 *probation **[office]** department of the county in which the **[payer]***  
7 *obligor resides **[for an income execution]** after the **[payer]** obligor*  
8 *has failed to make a required alimony, maintenance or child support*  
9 *payment that has arrearages accrued in an amount equal to the*  
10 *amount of the support payable for 14 days **[within 25 days of its due***  
11 *date].* Subject to the provisions of **[section 4 of]** this act, the income  
12 **[execution]** *withholding shall take effect **[as and when provided***  
13 *by the county probation office]* *without amendment to the support*  
14 *order or further court or quasi-judicial action. The total amount*  
15 *of income to be withheld shall not exceed the maximum amount*  
16 *permitted under section 303 (b) of the federal Consumer Credit*  
17 *Protection Act (15 U. S. C. 1673 (b)). The income withholding*  
18 *shall be carried out in full compliance with all procedural due pro-*  
19 *cess requirements. The Administrative Office of the Courts shall*  
20 *establish procedures for promptly terminating the withholding*  
21 *when necessary and for promptly refunding amounts which have*  
22 *been improperly withheld.*

1 4. Section 4 of P. L. 1981, c. 417 (C. 2A:17-56.10) is amended to  
2 read as follows:

3 4. a. The **[county]** probation **[office]** department shall notify  
4 the **[payer]** obligor of the **[application for]** income **[execution]**  
5 *withholding* by certified or registered mail with return receipt re-  
6 *quested to the last known address. The notice shall be postmarked*  
7 *no later than 10 days after the date on which the application was*  
8 *filed, and shall inform the **[payer]** obligor that the **[execution]***  
9 *withholding shall take effect **[20]** 10 days after the postmark date*  
10 *of the notice unless the **[payer requests a court hearing. The***  
11 *payer may, before the effective date of the execution request a court*  
12 *hearing on the issue of whether the income execution should take*  
13 *effect and the amount and schedule of arrearages. The court hear-*  
14 *ing requested under this section shall be held within 30 days after*  
15 *the date of the request. At the hearing the burden shall be on the*  
16 *payer to demonstrate good cause why the income execution, in*  
17 *cluding the amount or schedule of arrearages, should not take effect.*  
18 **Payment of arrearages after the due date shall not be good cause]**  
19 *obligor contests the withholding. An obligor may contest a with-*  
20 *holding only on the basis of mistake of fact. The notice to the*  
21 *obligor shall include but not be limited to: the amount to be with-*

22 held, including an amount to be applied toward liquidation of ar-  
 23 rearages; a statement that the withholding applies to current and  
 24 subsequent sources of income; the methods available for contesting  
 25 the withholding on the grounds that the withholding is not proper  
 26 because of mistake of fact; the period within which the probation  
 27 department shall be contacted in order to contest the withholding  
 28 and that failure to do so will result in notifying the payor to begin  
 29 withholding; and the actions the probation department will take if  
 30 the individual contests the withholding.

31 If an obligor contests the proposed withholding, the probation  
 32 department shall schedule a hearing within 20 days after receiving  
 33 notice of contest of the withholding. If it is determined that the  
 34 withholding is to occur, the probation department shall provide  
 35 notice to the obligor. Notice to the obligor shall include the time  
 36 within which the withholding is to begin. Notice to the obligor shall  
 37 also include all of the information that is included in the notice to  
 38 the payor in section 5 of this act. The obligor shall be notified by  
 39 the probation department within five days of the determinations  
 40 made at the hearing.

41 b. The [county] probation department shall prepare the [execu-  
 42 tion which shall include the amount of the monthly payments set  
 43 forth in the order and where appropriate a schedule of payments  
 44 towards the arrearages due at the time the execution takes effect  
 45 in accordance with the provisions of this act] *income withholding*  
 46 *\*\*notice\*\** when the obligor does not contest the withholding or has  
 47 exhausted all procedures established by the Administrative Office  
 48 of the Courts for contesting the withholding. The *income withhold-*  
 49 *ing* shall include requirements that a payor withhold the amount  
 50 specified in the notice and shall include a statement that the amount  
 51 actually withheld for support and for other purposes may not be  
 52 in excess of the amount allowed under section 303 (b) of the federal  
 53 Consumer Credit Protection Act (15 U. S. C. 1673 (b)). [If the  
 54 court modifies any] *On any order modifying* alimony, maintenance  
 55 or child support [order] based upon changed circumstances, the  
 56 income [execution] *withholding* amount shall also be changed ac-  
 57 cordingly. This income [execution] *withholding* shall have priority  
 58 over any other [executions] *withholding* without regard to the  
 59 dates of the other income withholdings.

60 c. An [execution] *income withholding* made under [section 3]  
 61 *this act* shall continue in full force and effect until such time as a  
 62 court order to the contrary is entered upon [a showing of good  
 63 cause] *the liquidation of all arrearages*.

64 d. Where there is more than one support order for withholding

65 *against a single obligor, the payor shall withhold the payments to*  
 66 *fully comply with the court orders on a pro rata basis to the extent*  
 67 *that the total amount withheld from the obligor's wages does not*  
 68 *exceed the limits allowed under section 303 (b) of the federal Con-*  
 69 *sumer Credit Protection Act (15 U. S. C. 1673 (b)). Payors may*  
 70 *combine withheld amounts in a single payment for each appropriate*  
 71 *probation department requesting withholding and separately iden-*  
 72 *tify the portion of the payment which is attributable to each indi-*  
 73 *vidual obligor.*

1 5. Section 5 of P. L. 1981, c. 417 (C. 2A:17-56.11) is amended to  
 2 read as follows:

3 5. An **execution** *income withholding* made under **section 3 of**  
 4 this act shall be binding upon the **employer** *payor* and successor  
 5 **employers one week** *payors 14 days* after service upon the **em-**  
 6 **ployer** *payor* by the **county** probation **office** *department* of a  
 7 **true** copy of the **execution** and annexed to a copy of the order  
 8 by personal service or **income withholding** by registered or certi-  
 9 fied mail with return receipt requested until further order **of the**  
 10 **court**. *The payor is to pay the withheld amount to the probation*  
 11 *department at the same time the obligor is paid. The payor shall*  
 12 *implement withholding no later than the first pay period that occurs*  
 13 *14 days after the date the notice was postmarked. For each pay-*  
 14 *ment, the employer payor may receive \$1.00 which shall be de-*  
 15 *ducted from the employee's salary obligor's income in addition*  
 16 *to the amount of the support order.*

17 *Notice to the payor shall include, but not be limited to, the amount*  
 18 *to be withheld from the obligor's income and a statement that the*  
 19 *amount actually withheld for support and other purposes may not*  
 20 *be in excess of the maximum amounts permitted under section*  
 21 *303 (b) of the federal Consumer Credit Protection Act 15 U. S. C.*  
 22 *1673 (b) that the payor shall send the amount to the probation*  
 23 *department at the same time the obligor is paid, unless the proba-*  
 24 *tion department directs that payment be made to another individual*  
 25 *or entity; that the payor may deduct a fee of \$1.00 in addition to*  
 26 *the amount of the support order; that withholding is binding on*  
 27 *the payor until further notice by the probation department; that*  
 28 *the payor is subject to a fine for discharging an obligor from em-*  
 29 *ployment, refusing to employ, or taking disciplinary action against*  
 30 *an obligor because of the withholding; that if the payor fails to*  
 31 *withhold wages in accordance with the provisions of the notice, the*  
 32 *payor is liable for any amount up to the accumulated amount the*  
 33 *payor should have withheld from the obligor's income; that the*  
 34 *withholding shall have priority over any other legal process under*

35 *State law against the same wages; that the payor may combine*  
 36 *withheld amounts from the obligor's wages in a single payment to*  
 37 *each appropriate agency requesting withholding and separately*  
 38 *identify the portion of the single payment which is attributable to*  
 39 *each individual obligor; that if there is more than one support*  
 40 *order for withholding against a single obligor, the payor shall with-*  
 41 *hold the payments on a pro rata basis to fully comply with the sup-*  
 42 *port orders, to the extent that the total amount withheld does not*  
 43 *exceed the limits imposed under section 303 (b) of the federal Con-*  
 44 *sumer Credit Protection Act (15 U. S. C. 1673 (b)); that the payor*  
 45 *shall implement withholding no later than the first day period that*  
 46 *occurs 14 days after the date the notice was postmarked; and that*  
 47 *the payor shall notify the probation department promptly upon*  
 48 *the termination of the obligor's employment benefits and provide*  
 49 *the obligor's last known address and the name and address of the*  
 50 *obligor's new payor, if known.*

1 6. Section 6 of P. L. 1981, c. 417 (C. 2A:17-56.12) is amended to  
 2 read as follows:

3 6. The [employer] payor may not use an [execution] income  
 4 withholding as a basis for the discharge of any [employee] ob-  
 5 ligor or for any disciplinary action against the [employee. An  
 6 employer] obligor. A payor who discharges or disciplines an [em-  
 7 ployee]obligor in violation of this act or who discriminates in  
 8 hiring because of an income [execution] withholding or a potential  
 9 [execution] withholding is a disorderly person. \*\*Any obligor  
 10 claiming to be aggrieved by an unlawful discharge may initiate  
 11 suit in Superior Court for damages and reinstatement of employ-  
 12 ment. In any action, the prevailing party may be awarded reason-  
 13 able attorney's fees providing, however, that no attorney's fees  
 14 shall be awarded to the respondent unless there is a determination  
 15 that the action was brought in bad faith. In addition to any other  
 16 relief or affirmative action provided by law, the payor may be liable  
 17 for twofold compensatory damages. Compensatory damages shall  
 18 include the costs of proving the discharge, out-of-pocket expenses,  
 19 and lost income.\*\* If the payor fails to withhold the amount of the  
 20 order, the payor is liable for amounts up to the accumulated amount  
 21 the payor should have withheld. Payors shall notify the probation  
 22 department promptly of the termination of the obligor's employ-  
 23 ment and provide the obligor's last known address and the name  
 24 and address of the obligor's new payor, if known.

1 7. Section 7 of P. L. 1981, c. 417 (C. 2A:17-56.13) is amended to  
 2 read as follows:

3 7. In every award for alimony, maintenance or child support

4 payments the judgment or order shall provide that payments be  
 5 made through the probation [office] *department* of the county in  
 6 which the [payer] *obligor* resides, unless the court, for good cause  
 7 shown, otherwise orders. [Upon the signing of an order or judg-  
 8 ment allowing alimony or support or both through the county pro-  
 9 bation office the court shall send to the county probation office a  
 10 statement with the addresses, telephone numbers, social security  
 11 numbers of both parties and the name and address of the payer's  
 12 place of employment]. Each judgment or order for alimony, main-  
 13 tenance or child support shall include an order that the [payer]  
 14 *obligor* and [payee] *obligee* notify the appropriate [county] pro-  
 15 bation [office] *department* of any change of [employer] *payor* or  
 16 change of address within 10 days of the change. Failure to provide  
 17 this information shall be considered a violation of this order.

18 *Service at the address of record of all summons, pleadings, or*  
 19 *notices shall be effective for all purposes. When an obligor changes*  
 20 *employment within the State while income withholding is in effect,*  
 21 *the probation department shall notify the new payor that the with-*  
 22 *holding is binding on the new payor. When a [county] probation*  
 23 *[office] department is unable to locate the [payer's] obligor's cur-*  
 24 *rent [employer] payor in order to effectuate an income [execu-*  
 25 *tion] withholding under this act, the [office] probation department*  
 26 *is authorized to utilize [the] any other procedure [established in*  
 27 *the "Wage Reporting Act," P. L. 1980, c. 48 (C. 54:1-55 et seq.)]*  
 28 *authorized by law to obtain this information.*

1 8. Section 8 of P. L. 1981, c. 417 (C. 2A:17-56.14) is amended to  
 2 read as follows:

3 8. [Subject to the provisions of section 4 of this act, a person  
 4 already entitled to payments under any alimony, maintenance or  
 5 child support order issued prior to the effective date of this act or  
 6 the county agency administering Title IV-D of the federal Social  
 7 Security Act on behalf of such payee may apply to the appropriate  
 8 county probation office for an income execution order in accordance  
 9 with the provisions of this act. A payee] *An obligee* who does not  
 10 receive payments made through the [county] probation [office]  
 11 *department* shall file an affidavit when applying for the [execu-  
 12 tion] *income withholding* stating that the [payment was not made  
 13 within 25 days of its due date] *payments not made for support have*  
 14 *accrued arrearages in an amount equal to the amount of support*  
 15 *payable for 14 days. The probation department shall administer*  
 16 *the withholding in accordance with procedures specified for keep-*  
 17 *ing adequate records to document, track, and monitor support pay-*  
 18 *ments or establish or permit the establishment of alternative pro-*



19 *cedures for the collection and distribution of amounts withheld by*  
 20 *an entity other than a designated public agency. Alimony, main-*  
 21 *tenance or child support payments not presently made through the*  
 22 **【county】** *probation 【office】 department shall be so made upon ap-*  
 23 *plication of the 【payee】 obligee unless the 【payer】 obligor upon*  
 24 *application to the court shows good cause to the contrary.*

25 *A monitoring fee of \$25.00 annually shall be applied upon the re-*  
 26 *quest of either the obligor or obligee for the payment of support*  
 27 *through the probation department regardless of whether or not*  
 28 *arrearages exist or withholding procedures have been instituted.*  
 29 *The probation department shall monitor all amounts paid and the*  
 30 *dates of payments and record them on a separate form.*

31 The court and the **【county】** probation **【office】** department shall  
 32 follow the procedures established in this act.

1 9. N. J. S. 2A:34-24 is amended to read as follows:

2 2A:34-24. If **【a husband, without justifiable cause,】** *an obligor*  
 3 *spouse shall abandon 【his wife】 obligee spouse or separate 【him-*  
 4 *self】 from 【her】 the obligee and refuse or neglect to maintain and*  
 5 *provide for 【her】 the obligee, the court may order suitable support*  
 6 *and maintenance to be paid and provided by the 【husband】 ob-*  
 7 *ligor for the 【wife】 obligee and 【her】 their children, or any of*  
 8 *them, by their marriage【, or to be made out of his property】. If*  
 9 *the obligor fails to comply with the order of the court, entered in*  
 10 *New Jersey or another jurisdiction, the court may impose a lien*  
 11 *against the real and personal property of the obligor who lives in*  
 12 *or owns property in New Jersey to secure payment of the overdue*  
 13 *support and for such time as the nature of the case and circum-*  
 14 *stances of the parties render suitable and proper. Such lien shall*  
 15 *have priority over any claim that may interrupt the support and*  
 16 *maintenance for the obligee and their children, or any of them.*

17 *If the circumstances warrant, for such overdue support or main-*  
 18 *tenance, upon reasonable notice, the 【The】 court may compel the*  
 19 **【defendant】** *obligor to give reasonable security, post a bond, or*  
 20 *other guarantee for such overdue support and for present and*  
 21 *future support and maintenance 【and allowance】 and may, from*  
 22 *time to time, make further orders touching the same as shall be*  
 23 *just and equitable and enforce such judgment and orders in the*  
 24 *manner provided in 【section】 N. J. S. 2A:34-23 【of this title. Dur-*  
 25 *ing the time such maintenance shall be allowed, the husband shall*  
 26 *not be chargeable with the debts of the wife】.*

1 10. Section 18 of P. L. 1983, c. 17 (C. 9:17-55) is amended to  
 2 read as follows:

3 18. a. If existence of the father and child relationship is declared,

4 or paternity or a duty of support has been acknowledged or adjudi-  
 5 cated under this act or under prior law, the obligation of the father  
 6 may be enforced in the same or other proceedings by the mother,  
 7 and child, the public agency that has furnished or may furnish the  
 8 reasonable expenses of pregnancy, postpartum disability, educa-  
 9 tion, support, *medical expenses*, or burial, or by any other person,  
 10 including a private agency, to the extent that the mother, child,  
 11 person or agency has furnished or is furnishing these expenses.

12 b. The court may order support payments to be made to the  
 13 mother, the clerk of the court, the appropriate **【county】** probation  
 14 **【office】** *department*, or a person, corporation, or agency designated  
 15 to administer them for the benefit of the child, under the supervi-  
 16 sion of the court.

17 c. Willful failure to obey the judgment or order of the court is  
 18 a civil contempt of the court.

1 11. Section 14 of P. L. 1977, c. 17 (C. 54:4-3.92a) is amended to  
 2 read as follows:

3 14. The homestead tax rebate authorized under this act shall  
 4 not be subject to any garnishment, attachment, execution or other  
 5 legal process under any circumstances whatsoever, *except for an*  
 6 *income withholding order issued pursuant to P. L. 1981, c. 4 (C.*  
 7 *2A:17-56.7 et seq.)* nor shall the payment thereof be anticipated.

1 12. Section 1 of P. L. 1981, c. 239 (C. 54A:9-8.1) is amended to  
 2 read as follows:

3 1. Whenever any taxpayer or homeowner shall be entitled to any  
 4 refund of taxes pursuant to the "New Jersey Gross Income Tax"  
 5 (N. J. S. 54A:1-1 et seq.) or a homestead rebate pursuant to P. L.  
 6 1976, c. 72 (C. 54:4-3.80 et seq.), and at the same time the taxpayer  
 7 or homeowner shall be indebted to any agency or institution of  
 8 State Government *or for child support under Title IV-A, Title*  
 9 *IV-D, or Title IV-E of the federal Social Security Act (42 U. S. C.*  
 10 *601 et seq.)*, the Department of the Treasury **【may】** *shall* apply  
 11 or cause to be applied the refund or rebate, or both, or so much  
 12 of either or both as shall be necessary, to satisfy the indebtedness.  
 13 *Child support indebtedness shall take precedence over all other*  
 14 *indebtedness.* The Department of the Treasury shall retain a per-  
 15 centage of the proceeds of any collection setoff as shall be necessary  
 16 to provide for any expenses of the collection effort.

1 13. (New section) The Administrative Office of the Courts shall  
 2 promulgate rules and regulations concerning procedures for deter-  
 3 mining which support cases are appropriate for application of tax  
 4 setoff, for verifying the accuracy of the amounts referred for set-  
 5 off, notifying the State Department of Treasury of any child sup-

6 port indebtedness subject to section 1 of P. L. 1981, c. 239 (C.  
7 54A:9-8.1) and changes thereto, and any other procedures necessary  
8 to comply with Pub. L. 98-378.

1 14. (New section) As used in this amendatory and supplementary  
2 act:

3 a. "Income" means, but is not limited to, the obligor's com-  
4 missions, salaries, earnings, wages, rent monies, unemployment  
5 compensation, worker's compensation, any legal or equitable inter-  
6 est or entitlement owed that was acquired by a cause of action,  
7 suit, claim or counterclaim, insurance benefits, claims, assets of  
8 estates, trusts, federal income tax refunds, State income tax re-  
9 funds, homestead rebates, State lottery prizes, casino and race  
10 track winnings, annuities, retirement benefits, veteran's benefits,  
11 union benefits, or other source that may be defined as "income."

12 b. "Support order" means an order, decree, or judgment for  
13 the support or for the payment of arrearages on such support of  
14 a child, spouse, or former spouse issued by a court or administer-  
15 ing IV-D agency within the State of New Jersey or another juris-  
16 diction, whether interlocutory or final, whether prospectively or  
17 retroactively modifiable, whether incidental to a proceeding for  
18 divorce, separation, separate maintenance, paternity, guardianship,  
19 civil protection, or otherwise.

20 c. "Jurisdiction" means any State or political subdivision, terri-  
21 tory or possession of the United States, the District of Columbia,  
22 and the Commonwealth of Puerto Rico.

23 d. "State IV-D Agency" means the agency in the Department  
24 of Human Services designated to administer the Title IV-D Child  
25 Support Program.

26 e. "Child" means a child, whether above or below the age of  
27 majority for whom a support order exists.

28 f. "Title IV-D" means Part D, "Child Support and Establish-  
29 ment of Paternity" in Subchapter IV of the Social Security Act  
30 (42 U. S. C. § 651 et seq.).

31 g. "Obligor" means the absent parent or any other person re-  
32 quired to make payments under the terms of a support order for  
33 a child, spouse, or former spouse.

34 h. "Obligee" means the individual or entity entitled to receive  
35 support under an order of support and shall include agencies of  
36 this and another jurisdiction to which an obligee has assigned the  
37 obligee's right to support.

38 i. "Payor" means any payor of income to an obligor and shall  
39 include an obligor's employer.

40 j. "Consumer reporting agency" means a credit reporting agency

41 as defined in the federal Fair Credit Reporting Act (15 U. S. C.  
42 1681a (f)) as any person which, for monetary fees, dues, or on a  
43 cooperative nonprofit basis, regularly engages in whole or in part  
44 in the practice of assembling or evaluating consumer credit infor-  
45 mation or other information on consumers for the purpose of  
46 furnishing reports to third parties and which uses any means or  
47 facility of interstate commerce for the purpose of preparing or  
48 furnishing consumer reports.

1 15. (New section) The income withholding provisions pursuant  
2 to P. L. 1981, c. 417 (C. 2A:17-56.7 et seq.) shall be extended to  
3 include a withholding of income for support orders issued in  
4 another state.

5 If an obligor with a support order issued in another state has  
6 income derived from within this State, the probation department  
7 shall comply with the applicable provisions of this act. Withhold-  
8 ing shall be implemented promptly and the payor shall be required  
9 to comply with the withholding notice.

10 When an obligor terminates employment within the State, the  
11 probation department shall notify the state where the order was  
12 entered of the obligor's termination from employment and the ob-  
13 ligor's new address and new payor, if known.

1 16. (New section) When an income withholding order has been  
2 issued in this State, it shall promptly be forwarded to the appro-  
3 priate child support enforcement administrative agency in the  
4 payor's state. All procedural due process requirements of the  
5 state where the obligor has income shall apply to the income with-  
6 holding.

1 17. (New section) a. In enforcing all existing and future orders  
2 for support, and notwithstanding other provisions to the contrary,  
3 the State IV-D agency without a new order, shall have the authority  
4 to assess interest or late payment fees on any support order not  
5 paid within 30 days of the due date.

6 b. The late payment fee or interest shall be determined by the  
7 State IV-D agency within amount specified by the federal Depart-  
8 ment of Health and Human Services.

9 c. The fee or interest shall accrue as arrearages accumulate and  
10 shall not be reduced upon partial payment of arrears. The fee or  
11 interest may be collected only after the full amount of overdue sup-  
12 port is paid and all State requirements for notice to the obligor  
13 have been met.

14 d. The collection of the fee or interest shall not directly or in-  
15 directly reduce the amount of current or overdue support paid to  
16 the obligee to whom it is owed.

17 e. The late payment fee or interest shall be uniformly applied  
18 in all cases administered under the State IV-D Program, including  
19 public assistance, nonpublic assistance, and foster care cases.

1 18. (New section) a. The State IV-D agency shall have the au-  
2 thority to make available information on overdue support owed  
3 by obligors to consumer reporting agencies upon their request  
4 subject to the conditions set forth in this section.

5 b. In all State IV-D agency cases where the obligor is more  
6 than \$1,000.00 in arrears, the information shall be made available  
7 upon the consumer reporting agency's request and may be made  
8 available in all other cases.

9 c. The State IV-D agency may establish a fee for all requests  
10 which will be uniformly applied in all IV-D cases. Any fee charged  
11 shall be limited to the actual cost of providing the information.

12 d. The obligor shall receive written notice that the information  
13 will be made available to the credit reporting agency. The obligor  
14 shall have an opportunity to contest the accuracy of the informa-  
15 tion.

16 e. The State IV-D agency shall comply with all applicable pro-  
17 cedural due process requirements before releasing information.

1 19. (New section) a. The State IV-D agency shall have the au-  
2 thority to charge an application fee to individuals not receiving  
3 Aid to Families with Dependent Children who apply for IV-D  
4 services.

5 b. The application fee shall be uniformly applied on a Statewide  
6 basis and shall be a flat dollar amount not to exceed \$25.00 or other  
7 amount as may be appropriate for any fiscal year to reflect ad-  
8 ministrative costs.

9 c. The fee shall be collected directly from the obligee who applied  
10 for IV-D services.

11 d. The State IV-D agency shall determine by regulation the dis-  
12 tribution of the fees collected.

1 \*20. (New section) *The Supreme Court shall adopt by court  
2 rule a system for expediting child support cases as required by  
3 Pub. L. 98-378 (42 U. S. C. § 601 et seq.).*

1 21. (New section) a. *The probation department in each county  
2 shall monitor the overall implementation of the State's child sup-  
3 port enforcement program pursuant to Part D in subchapter IV  
4 of the Social Security Act (42 U. S. C. § 651 et seq.) to ensure  
5 compliance with the provisions of this amendatory and supple-  
6 mentary act by collecting and maintaining individual and aggregate  
7 case statistics as required by the Administrative Office of the  
8 Courts.*

9     *b. The probation department in each county shall provide ag-*  
10 *gregate statistical reports of case statistics monthly to the State*  
11 *IV-D agency and the Administrative Office of the Courts.*

12     *c. The State IV-D agency shall compile the monthly statistical*  
13 *reports submitted by the probation departments and report to the*  
14 *Legislature on the agency's assessment of the effectiveness of this*  
15 *amendatory and supplementary act in enforcing support orders,*  
16 *18 months after the effective date of this amendatory and supple-*  
17 *mentary act.\**

1     \***[20.]**\* \*22.\* (New section) The Department of Human Services  
2 shall promulgate rules and regulations pursuant to its rulemaking  
3 authority under the "Administrative Procedure Act," P. L. 1968,  
4 c. 410 (C. 52:14B-1 et seq.) in order to effectuate the purposes of  
5 this act.

1     \***[21.]**\* \*23.\* Section 12 of P. L. 1981, c. 417 (C. 2A:17-56.15) is  
2 repealed.

1     \***[22.]**\* \*24.\* This act shall take effect on October 1, 1985.

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7 upon the consumer reporting agency's request and may be made  
8 available in all other cases.

9 c. The State IV-D agency may establish a fee for all requests  
10 which will be uniformly applied in all IV-D cases. Any fee charged  
11 shall be limited to the actual cost of providing the information.

12 d. The obligor shall receive written notice that the information  
13 will be made available to the credit reporting agency. The obligor  
14 shall have an opportunity to contest the accuracy of the informa-  
15 tion.

16 e. The State IV-D agency shall comply with all applicable pro-  
17 cedural due process requirements before releasing information.

1 19. (New section) a. The State IV-D agency shall have the au-  
2 thority to charge an application fee to individuals not receiving  
3 Aid to Families with Dependent Children who apply for IV-D  
4 services.

5 b. The application fee shall be uniformly applied on a Statewide  
6 basis and shall be a flat dollar amount not to exceed \$25.00 or other  
7 amount as may be appropriate for any fiscal year to reflect ad-  
8 ministrative costs.

9 c. The fee shall be collected directly from the obligee who applied  
10 for IV-D services.

11 d. The State IV-D agency shall determine by regulation the dis-  
12 tribution of the fees collected.

1 20. (New section) The Department of Human Services shall  
2 promulgate rules and regulations pursuant to its rulemaking au-  
3 thority under the "Administrative Procedure Act," P. L. 1963, c.  
4 410 (C. 52:14B-1 et seq.) in order to effectuate the purposes of  
5 this act.

1 21. Section 12 of P. L. 1981, c. 417 (C. 2A:17-56.15) is repealed.

1 22. This act shall take effect on October 1, 1985.

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#### STATEMENT

In the Child Support Amendments of 1984, (Pub. L. 98-378) the federal government recognized delinquent child support payments as a national problem and provided that certain measures be taken by the states to enforce support orders by October 1, 1985. A state may lose its federal matching funds if the state does not act.

The federal Child Support Enforcement Amendments of 1984 require that the current State law be amended. Automatic withholding is mandatory without the need to return to court. Provisions for withholding include support payments on arrearages as well as the current support obligation. Procedures are mandated

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to permit contesting an income withholding only on the basis of mistake of fact. Requirements are established for notifying the absent parent of the income withholding. Withholding must be implemented for support orders from any other jurisdiction outside of the State of New Jersey. All income withholding requirements are carried out in full compliance with procedural due process requirements of the State of New Jersey and requirements for state legislation as mandated by the federal government.

In cases deemed to be appropriate by the court, liens may be imposed upon real and personal property of absent parents, and an absent parent may be required to post a bond, security, or other guarantee to secure the overdue support. A State income tax refund offset is mandatory for all appropriate cases.

Under the new federal law, the states may charge a late payment fee to the obligor as a deterrent to delinquency. This act would leave that option open to the state's child support program if it deems such measure would improve collections of child support. New Jersey shall charge a one-time fee for non-Aid to Families with Dependent Children cases requesting Title IV-D services.

Finally, the State is required for all IV-D cases in which the amount of overdue support exceeds \$1,000.00, and at the State's option in all other cases, to make available the information to consumer reporting agencies.

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ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 2888**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 24, 1985

As amended by the committee, this bill, entitled the "Support Enforcement Act of 1985," revises various sections of law in order to ensure New Jersey's statutes are in compliance with the recently enacted federal Child Support Enforcement Amendments of 1984 (Pub. L. 98-378).

The bill provides for the following major changes in State law:

—Requires that all court orders for alimony, maintenance and child support, including orders issued before the effective date of this bill, shall be enforced by income withholding (current law provides that orders may be enforced by income withholding and only applies to orders issued after 1981 when the law was enacted);

—Provides that income withholding shall begin when support payments are 14 days overdue (current law provides for 25 days);

—Provides that an income withholding may be contested by the obligor only on the basis of "mistake of fact" (current law permits additional bases for contesting the withholding);

—Provides that if an employer does not withhold income of an employee as required, the employer is liable for the amount not withheld (current law does not have this provision);

—Authorizes the court to impose a lien on the real and personal property of an obligor to secure payment of overdue support and permits the court to require that the absent parent post a bond or other security to guarantee payment (current law authorizes the court to require the obligor to give "reasonable security" to ensure payment of support);

—Provides that the State may attach an obligor's homestead rebate to collect overdue support and that support indebtedness takes precedence over other indebtedness (current law does not specify support indebtedness);

—Extends the State income withholding system to include support orders issued in other states when an obligor has income in New Jersey (current law has no provision for this);

—Authorizes the State to notify the child support enforcement agency of another state when a support order has been issued in New Jersey and the obligor has income from that other state (current law has no provision for this);

—Permits the State IV-D agency (in the Division of Public Welfare) to assess interest or late payment fees on a support order which is 30 days overdue (current law has no provision for this);

—Directs the State IV-D agency to make information about overdue support greater than \$1,000.00 available to consumer reporting agencies, upon request, and permits the State to make this information available at the State's option when the amount due is less than \$1,000.00 (current law has no provision for this); and

—Directs the Supreme Court to adopt by court rule a system for expediting child support cases as required by federal law.

The Senate Institutions, Health and Welfare Committee amended the bill to include the provision regarding the court rule for establishing a system for expediting child support cases and to establish a mechanism to monitor the operation of the child support enforcement system through the probation departments and the Administrative Office of the Courts.

This bill prohibits, as a disorderly persons offense, the payor from using income withholding as a basis for discharge or discipline against the obligor. The Assembly Judiciary Committee amended the bill to authorize suit in the Superior Court for a person claiming to be aggrieved by an unlawful discharge, and to authorize the awarding of reasonable attorney's fees, two-fold compensatory damages and the reinstatement of employment in certain cases.

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SENATE INSTITUTIONS, HEALTH AND WELFARE  
COMMITTEE

STATEMENT TO

**SENATE, No. 2888**

with Senate committee amendments

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**STATE OF NEW JERSEY**

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DATED: MAY 6, 1985

As amended by committee, this bill, entitled the "Support Enforcement Act of 1985," amends and supplements various sections of law in order to ensure New Jersey's statutes are in compliance with the recently enacted federal Child Support Enforcement Amendments of 1984 (Pub. L. 98-378).

The bill provides for the following major changes in State law:

—Requires that all court orders for alimony, maintenance and child support, including orders issued before the effective date of this bill, shall be enforced by income withholding (current law provides that orders may be enforced by income withholding and only applies to orders issued after 1981 when the law was enacted):

—Provides that income withholding shall begin when support payments are 14 days overdue (current law provides for 25 days);

—Provides that an income withholding may be contested by the obligor only on the basis of "mistake of fact" (current law permits additional bases for contesting the withholding);

—Provides that if an employer does not withhold income of an employee as required, the employer is liable for the amount not withheld (current law does not have this provision);

—Authorizes the court to impose a lien on the real and personal property of an obligor to secure payment of overdue support and permits the court to require that the absent parent post a bond or other security to guarantee payment (current law authorizes the court to require the obligor to give "reasonable security" to ensure payment of support);

—Provides that the State may attach an obligor's homestead rebate to collect overdue support and that support indebtedness takes precedence over other indebtedness (current law does not specify support indebtedness);

—Extends the State income withholding system to include support orders issued in other states when an obligor has income in New Jersey (current law has no provision for this);

—Authorizes the State to notify the child support enforcement agency of another state when a support order has been issued in New Jersey and the obligor has income from that other state (current law has no provision for this);

—Permits the State IV-D agency (in the Division of Public Welfare) to assess interest or late payment fees on a support order which is 30 days overdue (current law has no provision for this);

—Directs the State IV-D agency to make information about overdue support greater than \$1,000.00 available to consumer reporting agencies, upon request, and permits the State to make this information available at the State's option when the amount due is less than \$1,000.00 (current law has no provision for this); and

—Directs the Supreme Court to adopt by court rule a system for expediting child support cases as required by federal law.

The committee amended the bill to include the provision regarding the court rule for establishing a system for expediting child support cases and to establish a mechanism to monitor the operation of the child support enforcement system through the probation departments and the Administrative Office of the Courts.

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# OFFICE OF THE GOVERNOR NEWS RELEASE

**CN-001**  
**Contact:** PAUL WOLCOTT  
609-292-8956

**TRENTON, N.J. 08625**  
**Release:** THURS., AUG. 8, 1985

Governor Thomas H. Kean has signed legislation designed to strengthen the child support laws by allowing child support payments to be withheld from the salary of an individual who is delinquent in making such payments.

The bill, S-2888, was sponsored by State Senator Wynona Lipman, D-Essex. It amends State statutes to comply with federal laws on child support.

"Delinquency in the payment of child support hurts the most defenseless members of our society --- the children," Kean said. "I believe we have a clear obligation to take every step we can to assure that our children receive the support they need to grow into responsible adults. In the case of children who rely on an absent parent for financial support, this obligation is even clearer.

"This bill represents an action taken to protect children. And I think it is an important one," he added.

Under the terms of the bill, court orders for alimony, maintenance or child support payments may be enforced by income withholding, regardless of when the court orders were issued. Prior to the signing of this amendment, withholding only applied to orders issued after the 1981 effective date of the current law.

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