

Article 3, Title 6-A Social Services Laws of New York (SOS)

§ 111-a. Federal aid; state plan. 1. The department is hereby designated as the single state agency to supervise the administration of the state's child support program provided for by this title, and a single organizational unit shall be established within the department for such purposes.

2. The department shall develop and submit a state child support program plan as required by part D of title IV of the federal social security act to the federal department of health, education and welfare for approval pursuant to such part in order to qualify the state for federal aid under such part. The department shall act for the state in any negotiations relative to the submission and approval of such plan and shall make such arrangements as may be necessary to obtain and retain such approval and to secure for the state the benefits of the provisions of such federal act relating to child support programs. The department shall promulgate regulations not inconsistent with law as may be necessary to assure that such plan conforms to the provisions of such part and any federal regulations adopted pursuant thereto. The department shall make all reports required by law to be made to such federal department in the form and manner required by federal regulations.

§ 111-b. Functions, powers and duties of the department. 1. The single organizational unit within the department shall be responsible for the supervision of the activities of state and local officials relating to establishment of paternity of children born out-of-wedlock, location of absent parents and enforcement of support obligations of legally responsible relatives to contribute for the support of their dependents.

2. The department is hereby authorized to accept, on behalf of the state and the social services districts concerned, assignments of support rights owed to persons receiving (i) aid to dependent children pursuant to title ten of article five of this chapter or, (ii) where appropriate, foster care maintenance payments made pursuant to title IV-E of the federal social security act; provided however, that it will not be appropriate where such requirement will have a negative impact upon the health, safety or welfare of such child or other individuals in the household or impair the likelihood of the child returning to his or her family when discharged from foster care or, (iii) home relief pursuant to title three of article five of this chapter. Notwithstanding any inconsistent provisions of title six of this article or any other provisions of law, the department may enforce such assigned support rights either directly, through social services officials or, if there is in effect an approved agreement between the social services official and another governmental agency, through such other agency. In any

proceeding to enforce such assignment, the official bringing such proceeding shall have the same rights as if the proceeding were being brought to enforce section four hundred fifteen of the family court act.

2-a. The department shall prepare a notice which shall be distributed by social services officials to persons who may be required to assign support rights which notice shall explain the rights and obligations that may result from the establishment of paternity and the right of the assignor to be kept informed, upon request, of the time, date and place of any proceedings involving the assignor and such other information as the department believes is pertinent. The notice shall state that the attorney initiating the proceeding represents the department.

3. In appropriate cases, the department is authorized to utilize support enforcement and collection and location services made available through the secretary of health and human services, including the services of federal courts, the federal parent locator service, the federal case registry of child support orders, the national directory of new hires, and the treasury department, if and so long as authorized and required by federal law.

4. The department shall maintain and operate a parent locator service with respect to cases being provided services pursuant to this title.

To effectuate the purposes of this subdivision, the commissioner shall request and receive from the departments, authorities, boards, bureaus, commissions, corporations, councils, funds, offices, or other agencies of the state, or any of its political subdivisions, and all such organizational entities of the state and social services districts are hereby directed, to provide and the political subdivisions are hereby authorized to provide, such assistance and data as will enable the department and social services districts to properly carry out their powers and duties to locate such parents and to enforce their liability for the support of their children. Any records established pursuant to the provisions of this section shall be available only to the secretary of health and human services, office of the inspector general, social services districts, district attorneys, county attorneys, corporation counsels, and courts having jurisdiction in any proceeding under article four, five, five-A, or five-B of the family court act; provided, however, no organizational entity of the state need make available any data or information which is otherwise required by statute to be maintained in a confidential manner.

4-a. (a) The department shall maintain and operate a state case registry that contains records with respect to:

- (1) each case receiving services pursuant to this title; and
- (2) each support order established or modified in the state on or after the first day of October, nineteen hundred ninety-eight.

(b) For the purpose of subparagraph two of paragraph (a) of this subdivision, the term support order means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court

or an administrative agency of competent jurisdiction, including any adjusted order issued by a support collection unit, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

(c) Each case record in the state case registry with respect to cases described in subparagraph one of paragraph (a) of this subdivision for which a support order has been established shall include a record of:

(1) the amount of monthly (or other periodic) support owed under the order, and other amounts (including arrearages, interest or late payment penalties, and fees) due or overdue under the order;

(2) any amount described in subparagraph one of this paragraph that has been collected;

(3) the distribution of such collected amounts;

(4) the birth date of any child for whom the order requires the provision of support; and

(5) the amount of any lien imposed with respect to the order pursuant to section one hundred eleven-u of this article.

(d) The department shall update and monitor each case record in the state registry described in subparagraph one of paragraph (a) of this subdivision on the basis of:

(1) information on administrative actions and administrative and judicial proceedings and orders relating to paternity and support;

(2) information obtained from comparison with federal, state or local sources of information;

(3) information on support collections and distributions; and

(4) any other relevant information.

(e) Information maintained as part of the state case registry shall be made available to other state and federal agencies as provided for in federal statutes and regulations promulgated by the federal secretary of health and human services.

5. (a) There shall be established for each state fiscal year a statewide child support collections goal for amounts of collections of support obligations pursuant to this title, which goal shall be set forth in that portion of the state's local assistance budget intended for the appropriation of reimbursement to social services districts pursuant to this chapter. The commissioner shall, subject to the approval of the director of the budget, annually allocate a portion of the statewide goal to each social services district, which portion shall be based upon the district's portion of the statewide aid to dependent children program and other relevant factors.

(b) Notwithstanding any inconsistent provision of section one hundred fifty-three of this chapter, for each social services district which

fails to meet its portion of the collection goal established by this section, the commissioner shall deny state reimbursement for such district's expenditures for aid to dependent children, in an amount equal to the difference between the amount of non-federal funds such district is required to repay to the state out of collections actually made and the amount of non-federal funds such district would have been required to repay to the state had it met its collection goal.

(c) Any social services district which has been determined to have failed to meet its portion of the collection goal may request a redetermination by the commissioner or his designee in a manner to be established by department regulations. Upon a showing by such district that such failure was due in whole or in part to factors other than those administrative and processing functions or organizations which are subject to the jurisdiction of such district's local legislative body, the commissioner shall waive such failure in whole or in part and shall restore all or a corresponding portion of any state reimbursement previously denied pursuant to this section.

(d) For purposes of determining the amount of child support collections which are attributable toward meeting a district's portion of the statewide collections goal, any amounts collected by one social services district on behalf of another shall be credited to the district to which support payments have been assigned. Support payments collected on behalf of another state or on behalf of persons not in receipt of aid to dependent children shall not be taken into consideration in determining whether such district has met its goal.

(e) The department may for purposes of administrative convenience set monthly or quarterly goals based upon each district's annual goal and may deny reimbursement on a monthly or quarterly basis, subject to a final adjustment at the end of each year reflecting the extent to which each such district has met its portion of the statewide annual goal.

6. When the commissioner has determined that a social services district has failed to meet its portion of the statewide child support collections goal, as determined in accordance with the provisions of subdivision five of this section, or has failed to comply with the applicable provisions of federal law and regulations, he shall notify such district and the appropriate local legislative body of such determination and may promulgate any regulations he determines are necessary to improve such district's organization, administration, management or program. Such regulations shall be fully complied with by the effective date of such regulations.

7. The department, through the commissioner, shall enter into the agreement provided for in section one hundred seventy-one-c of the tax law and is authorized to furnish to the commissioner of taxation and finance and the state tax commission such information and to take such other actions as may be necessary to carry out the agreement provided for in such section, for the crediting of overpayments of tax to

past-due support which is owed to persons receiving services pursuant to this title and title six-B of this article. A person receiving services under this title shall receive a pro rata share of the overpayment of tax, based on the amount of past-due support owed to such person as certified to the tax commission by the department pursuant to section one hundred seventy-one-c of the tax law, in cases where the individual, estate or trust owing past-due support to such person owes past-due support to other persons or entities so certified to the tax commission by the department. Amounts certified to the state tax commission under such agreement may include amounts specified in subdivision eight of this section. The amount paid by the state comptroller to the department pursuant to subdivision one of section one hundred seventy-one-c of the tax law shall be distributed in accordance with applicable provisions of this chapter and the department's regulations. To the extent permitted by federal law, the department may also certify amounts to the federal department of health and human services for tax interception to the same extent as it certifies amounts pursuant to such section of the tax law.

The department shall by regulation establish procedures by which any individual, estate or trust which is the subject of a certification to the state tax commission in accordance with such agreement may contest such certification based on defenses that are not subject to family court jurisdiction. Such regulations and the notice required by subdivision four of section one hundred seventy-one-c of the tax law shall set forth defenses which may be available to the individual, estate or trust to contest such certification, and the manner in which a review of the certification based on such defenses may be obtained.

8. (a) Amounts certified to the state tax commission under the agreement described in subdivision seven of this section for persons who are receiving services pursuant to this title may include:

- (i) amounts representing delinquencies which have accrued under a court order of support;
- (ii) with respect to any court order of support made before September first, nineteen hundred eighty-four which provided for periodic payments toward an established arrears amount, the entire amount of such arrears where the respondent is, at any time after September first, nineteen hundred eighty-four, delinquent in making such periodic payments; and
- (iii) with respect to any court order of support made on or after September first, nineteen hundred eighty-four which establishes an arrears amount, the entire amount of such arrears, unless such order includes a finding that anticipated tax refunds pursuant to the most recently filed state and federal tax returns have been considered by the court and taken into account in determining the amount of periodic payments to be made toward the arrears amount, or in determining the amount of the current support order, and expressly provides that such arrears are not to be so certified.

(b) For the purpose of the state child support program any payment

made by a respondent which is insufficient to fully satisfy both a current court order of support and a periodic payment toward the balance of any arrears amount established by court order shall be first applied toward the current order of support or any delinquency thereon and then toward the periodic payment on any arrears amount established by court order unless otherwise required by federal regulation.

* 10. (a) The department, through the commissioner, shall enter into the agreement provided for in section sixteen hundred thirteen-a of the tax law and is authorized to furnish to the director of the lottery and the division of the lottery such information and to take such other actions as may be necessary to carry out the provisions of the agreement provided for in such section, for the crediting of lottery prizes of six hundred dollars or more to past-due support which is owed to persons receiving services pursuant to this title. A person receiving services under this title shall receive a pro rata share of the prize winning based on the amount of past-due support owed to such person as provided to the division of the lottery by the department pursuant to section sixteen hundred thirteen-a of the tax law, in cases where the individual, estate or trust owing past-due support to such person owes past-due support to other persons or entities so provided to the division of the lottery by the department. Amounts provided to the division of the lottery under such agreement may include amounts specified in this subdivision. The amount paid by the state comptroller to the department pursuant to subdivision one of section sixteen hundred thirteen-a of the tax law shall be distributed in accordance with applicable provisions of this chapter and the department's regulations.

(b) The department shall by regulation establish procedures by which any individual, estate or trust which is the subject of crediting of any lottery prize of six hundred dollars or more to the state division of the lottery in accordance with such agreement may contest such crediting based on defenses that are not subject to family court jurisdiction. Such regulations shall require that notice be given to the individual, estate or trust which shall set forth:

(i) defenses which may be available to the individual, estate or trust to contest such crediting;

(ii) the manner in which a review of the crediting of lottery prizes of six hundred dollars or more based on such defenses may be obtained;

(iii) the address and telephone number of the local department of social services' support collection unit which may be contacted with respect to correction of any error in such crediting concerning such individual's, estate's or trust's liability for past-due support or with respect to payment of such liability; and

(iv) the time frame by which such a defense must be made.

* NB There are 2 sb 10's

* 10. The commissioner must review the child support standards act at least once every four years to ensure that its application results in

the determination of appropriate child support amounts. As part of such review, the commissioner must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from the basic child support obligation. The analysis of the data must be used to ensure that such deviations are limited and, if appropriate, necessary revisions to the child support standards act must be submitted to the legislature to accomplish such purpose.

* NB There are 2 sb 10's

11. (a) Amounts certified to the division of the lottery under the agreement described in subdivision ten of this section for persons who are receiving services pursuant to this title may include:

(i) amounts representing delinquencies which have accrued under a court order of support;

(ii) with respect to any court order of support made which establishes an arrears amount, the entire amount of such arrears.

(b) For the purpose of the state child support program any payment made by a respondent which is insufficient to fully satisfy both a current court order of support and a periodic payment toward the balance of any arrears amount established by court order shall be first applied toward the current order of support or any delinquency thereon and then toward the periodic payment on any arrears amount established by court order unless otherwise required by federal regulation.

* 12. (a) The department, through the commissioner, shall enter into the agreement provided for in section five hundred ten of the vehicle and traffic law and is authorized to furnish to the commissioner of motor vehicles such information and to take such actions as may be necessary to carry out the agreement provided for in such section, for the enforcement of child support orders through the suspension of delinquent obligors' driving privileges.

(b) (1) When a support obligor who is or was under a court order to pay child support or combined child and spousal support to a support collection unit on behalf of persons receiving services under this title has accumulated support arrears equivalent to or greater than the amount of support due pursuant to such order for a period of four months, the office of temporary and disability assistance shall notify the support obligor in writing that his or her continued failure to pay the support arrears shall result in notification to the department of motor vehicles to suspend the support obligor's driving privileges unless the support obligor complies with the requirements set forth in paragraph (e) of this subdivision. For purposes of determining whether a support obligor has accumulated support arrears equivalent to or greater than the amount of support due for a period of four months, the amount of any retroactive support, other than periodic payments of retroactive support which are past due, shall not be included in the calculation of support arrears pursuant to this section; however, if at least four months of

support arrears have accumulated subsequent to the date of the court order, the entire amount of any retroactive support may be collected pursuant to the provisions of this subdivision or as otherwise authorized by law.

(2) The department shall provide the notice required by subparagraph one of this paragraph by first class mail to the support obligor's last known address or such other place where the support obligor is likely to receive notice, or in the same manner as a summons may be served. Forty-five days after the date of such notice, if the support obligor has not challenged the determination of the support collection unit pursuant to subparagraph one of paragraph (d) of this subdivision or if the support obligor has failed to satisfy the arrears/past due support or to otherwise comply with the requirements set forth in paragraph (e) of this subdivision, the department shall notify the department of motor vehicles that the support obligor's driving privileges are to be suspended pursuant to section five hundred ten of the vehicle and traffic law. Upon the support obligor's compliance with the provisions of paragraph (e) of this subdivision, the department shall advise the department of motor vehicles within five business days that the suspension of the support obligor's driving privileges shall be terminated. If the support obligor appears in person at the support collection unit to satisfy the requirements of paragraph (e) of this subdivision, the support collection unit shall immediately provide a notice of compliance to the support obligor, in addition to the notice sent directly to the department of motor vehicles.

(3) Notwithstanding the requirements of this subdivision, no notice shall be issued by the department pursuant to subparagraph one of this paragraph to a support obligor from whom support payments are being received by the support collection unit as a result of an income execution or an income deduction order issued pursuant to section five thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice law and rules.

(c) The notice provided to a support obligor by the department pursuant to paragraph (b) of this subdivision shall contain the caption of the order of support, the date the order of support was entered, the court in which it was entered, the amount of the periodic payments directed, and the amount of arrears/past due support. In addition, the notice shall include:

(1) an explanation of the action required pursuant to paragraph (e) of this subdivision to be taken by the support obligor to avoid the suspension of his or her driving privileges;

(2) a statement that forty-five days after the date of the notice, the department of motor vehicles will be notified to suspend the support obligor's driving privileges unless the support obligor may challenge the support collection unit's determination as set forth in paragraph (d) of this subdivision within forty-five days of the date of such

notice; a statement of the manner in which the support obligor may challenge the determination, and a statement that if the support obligor challenges the determination, a review will be completed by the support collection unit within seventy-five days of the date of the notice;

(3) a statement that if the support obligor does not challenge the support collection unit's determination then the department of motor vehicles shall be notified to suspend the support obligor's driving privileges unless the support obligor contacts the support collection unit to arrange for full payment or commencement of satisfactory payment arrangements on the arrears/past due support, or to comply otherwise with the requirements set forth in paragraph (e) of this subdivision, within forty-five days of the date of the notice;

(4) the address and telephone number of the support collection unit that the support obligor may contact to request information about a challenge or to comply with the requirements set forth in paragraph (e) of this subdivision;

(5) a statement that the suspension of driving privileges will continue until the support obligor pays the support arrears or complies otherwise with the requirements set forth in paragraph (e) of this subdivision; and

(6) a statement printed in boldface type that the support obligor's intentional submission of false written statements to the support collection unit for the purpose of frustrating or defeating the lawful enforcement of support obligations is punishable pursuant to section 175.35 of the penal law.

(d) (1) A support obligor may challenge in writing the correctness of the determination of the support collection unit that the obligor's driving privileges should be suspended, and in support of the challenge may submit documentation demonstrating mistaken identity, error in calculation of arrears, financial exemption from license suspension pursuant to the conditions enumerated in paragraph (e) of this subdivision, the absence of an underlying court order to support such determination, or other reason that the person is not subject to such determination. Such documents may include but are not limited to a copy of the order of support pursuant to which the obligor claims to have made payment, other relevant court orders, copies of cancelled checks, receipts for support payments, pay stubs or other documents identifying wage withholding, and proof of identity. The support collection unit shall review the documentation submitted by the support obligor, shall adjust the support obligor's account if appropriate, and shall notify the support obligor of the results of the review initiated in response to the challenge within seventy-five days from the date of the notice required by paragraph (b) of this subdivision. If the support collection unit's review indicates that the determination to suspend driving privileges was correct, the support collection unit shall notify the support obligor of the results of the review and that the support

obligor has thirty-five days from the date of mailing of such notice to satisfy the full amount of the arrears or commence payment of the arrears/past due support as specified in paragraph (e) of this subdivision and if the support obligor fails to do so, the support collection unit shall notify the department of motor vehicles to suspend the support obligor's driving privileges pursuant to section five hundred ten of the vehicle and traffic law. The support obligor shall be further notified that if the support obligor files objections with the family court and serves these objections on the support collection unit within thirty-five days from the date of mailing of the notice denying the challenge pursuant to subdivision five of section four hundred fifty-four of the family court act, the support collection unit shall not notify the department of motor vehicles to suspend the support obligor's driving privileges until fifteen days after entry of judgement by the family court denying the objections.

(2) A support obligor may within thirty-five days of mailing of the notice denying his or her challenge by the support collection unit request that the family court review the support collection unit's determination pursuant to subdivision five of section four hundred fifty-four of the family court act. If the support obligor requests the family court to review the determination of the support collection unit, the support collection unit shall not notify the department of motor vehicles to suspend the support obligor's driving privileges until fifteen days after mailing of a copy of the judgment by the family court to the support obligor denying the objections.

(e) A support obligor who has received a notice that his or her driving privileges shall be suspended may avoid the suspension by:

(1) making full payment of all arrears/past due support to the support collection unit; or

(2) making satisfactory payment arrangements with the support collection unit for payment of the arrears/past due support and the current support obligation. "Satisfactory payment arrangements" shall mean:

(i) execution of a confession of judgment for the total balance of the arrears/past due support; and

(ii) execution of a verified statement of net worth on a form prescribed by the commissioner setting forth the obligor's income from all sources, liquid assets and holdings, copies of the obligor's drivers license, most recent federal and state tax return, and a representative pay stub, and an eighteen month employment history; and

(iii) execution and verification of a stipulation that the obligor will notify the support collection unit of all future changes of address until such time as the obligation to pay support is terminated; and

(iv) payment of support to the support collection unit by income execution pursuant to section five thousand two hundred forty-one of the civil practice law and rules, which shall include deductions sufficient

to ensure compliance with the direction in the order of support and shall include an additional amount to be applied to the reduction of arrears as required by subdivision (b) of such section, or by execution of an agreement for payment of the arrears/past due support and any current support directly to the support collection unit in an amount which is consistent with that which would have been made under such an income execution; provided however, that where the support obligor fails to comply with the agreement, he/she may avoid or terminate the suspension of driving privileges only by making at least fifty percent payment of all arrears/past due support to the support collection unit and in addition, entering into a payment plan pursuant to this subdivision with the support collection unit within fifteen days. However, in any case when the support obligor fails to comply with a payment plan as described herein more than once within twelve months, the obligor must pay the balance of all arrears/past due support to avoid or terminate license suspension. "Failure to comply" for these purposes shall mean missing payments in an amount equivalent to four months of support under the payment plan, unless the support obligor demonstrates that he or she has filed a petition for modification that is pending; or

(3) providing documentation that shows the support obligor is receiving public assistance or supplemental security income; or

(4) providing to the support collection unit the documentation required by clauses (i) through (iii) of subparagraph two of this paragraph, where such documentation is sufficient for the support collection unit to determine:

(i) that the support obligor's income, as defined by subparagraph five of paragraph (b) of subdivision one of section four hundred thirteen of the family court act, falls below the self-support reserve as defined by subparagraph six of paragraph (b) of subdivision one of section four hundred thirteen of the family court act; or

(ii) that the amount of the support obligor's income, as defined by subparagraph five of paragraph (b) of subdivision one of section four hundred thirteen of the family court act, remaining after the payment of the current support obligation would fall below the self-support reserve as defined by subparagraph six of paragraph (b) of subdivision one of section four hundred thirteen of the family court act.

(f) A support obligor who alleges that he or she has not received actual notice pursuant to paragraph one of subdivision (b) of this section and whose driving privileges were suspended may at any time request a review pursuant to subdivision (d) of this section or comply with the requirements of subdivision (e) of this section, and upon a determination that he or she has not accumulated support arrears equivalent to or greater than the amount of support due for a period of four months or that he or she meets the requirements of subdivision (e) of this section, the department shall notify the department of motor

vehicles that the suspension of driving privileges shall be terminated.

* NB Repealed August 31, 2017

13. (a) The commissioner shall enter into the agreement provided for in section one hundred seventy-one-g of the tax law and is authorized to furnish to the commissioner of taxation and finance any information, and to take such other actions, as may be necessary to carry out the agreement provided for in such section, for the purpose of reviewing support orders pursuant to subdivision twelve of section one hundred eleven-h of this title.

(b) Information obtained under paragraph (a) of this subdivision shall be confidential and shall not be disclosed to persons or agencies other than those entitled to such information when such disclosure is necessary for the proper administration of the child support enforcement program pursuant to this title.

14. For purposes of this subdivision, the department or, pursuant to contract, a fiscal agent is authorized to collect and disburse any support paid pursuant to any order of child support or combined child and spousal support issued on or after the first day of January, nineteen hundred ninety-four under the provisions of section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five, five-A or five-B of the family court act, and which the court has ordered to be paid pursuant to an income execution issued by the sheriff, the clerk of the court, or the attorney for the creditor pursuant to subdivision (c) of section five thousand two hundred forty-one of the civil practice law and rules or an income deduction order issued by the court pursuant to subdivision (c) of section five thousand two hundred forty-two of the civil practice law and rules. Such support received shall be disbursed within two business days of receipt. The department shall maintain records of its collection and disbursement of such support and furnish such records to the parties to the order upon request. The department shall be entitled to collect an annual service fee not to exceed the maximum fee permitted pursuant to federal law for its provision of such services. Funds received in satisfaction of such fee shall be deposited in an account and shall be made available to the department for costs incurred in the implementation of this section. The department shall not furnish any additional services to the parties; however, a party seeking child support services may apply for such services pursuant to section one hundred eleven-g of this title. The department shall not be responsible for the collection and disbursement of any support until after it has received a copy of the income execution from the sheriff, the clerk of the court, or the attorney for the creditor or a copy of the income deduction order issued by the court and the person entitled to the payment of support pursuant to the order of support has submitted payment of the annual service fee if any, and unless its records show that it has received such support on behalf of the parties to the order, and that the party to whom the funds

are to be disbursed has provided the department with any address changes.

15. (a) The department, through the commissioner, shall enter into the agreement provided for in section one hundred seventy-one-i of the tax law and is authorized to furnish to the commissioner of taxation and finance such information and to take such other actions as may be necessary to carry out such agreement.

(b) (1) When a support obligor who is or was under a court order to pay child support or combined child and spousal support to a support collection unit on behalf of persons receiving services under this title has accumulated support arrears equivalent to or greater than the amount of support due pursuant to such order for a period of four months, the office of temporary and disability assistance shall notify the support obligor in writing that his or her continued failure to fully pay the support arrears shall result in notification to the department of taxation and finance that they are authorized to collect such arrearage. For purposes of determining whether a support obligor has accumulated support arrears equivalent to or greater than the amount of support due for a period of four months, the amount of any retroactive support, other than periodic payments of retroactive support which are past due, shall not be included in the calculation of support arrears pursuant to this section; however, if at least four months of support arrears have accumulated subsequent to the date of the court order, the entire amount of any retroactive support may be collected pursuant to the provisions of this subdivision or as otherwise authorized by law.

(2) The department shall provide the notice required by subparagraph one of this paragraph by first class mail to the support obligor's last known address or such other place where the support obligor is likely to receive notice by first class mail. Forty-five days after the date of such notice, if the support obligor has not challenged the determination of the support collection unit pursuant to subparagraph one of paragraph (d) of this subdivision or if the support obligor has failed to satisfy the arrears, the department shall notify the department of taxation and finance that the support obligor's support arrearage are authorized to be collected as prescribed in subparagraph one of this paragraph.

(3) Notwithstanding the requirements of this subdivision, no notice shall be issued by the department pursuant to subparagraph one of this paragraph to a support obligor from whom support payments are being received by the support collection unit as a result of an income execution or an income deduction order issued pursuant to section five thousand two hundred forty-one or five thousand two hundred forty-two of the civil practice law and rules.

(c) The notice provided to a support obligor by the department pursuant to paragraph (b) of this subdivision shall contain the caption of the order of support, the date the order of support was entered, the court in which it was entered, the amount of the periodic payments

directed, and the amount of arrears. In addition, the notice shall include:

(1) a statement that unless the support arrears are satisfied within forty-five days after the date of the notice, the department of taxation and finance will be notified that they are authorized to commence collection action unless the support obligor challenges the support collection unit's determination as set forth in paragraph (d) of this subdivision within forty-five days of the date of such notice; a statement of the manner in which the support obligor may challenge the determination, and a statement that if the support obligor challenges the determination, a review will be completed by the support collection unit within seventy-five days of the date of the notice;

(2) a statement that if the support obligor does not challenge the support collection unit's determination then the department of taxation and finance shall be notified that they are authorized to commence collection action unless the support obligor contacts the support collection unit to arrange for full payment of the arrears;

(3) the address and telephone number of the support collection unit that the support obligor may contact to request information about a challenge to the determination of the support collection unit;

(4) a statement that the collection actions by the department of taxation and finance is authorized to continue until the support obligor pays the support arrears; and

(5) a statement printed in boldface type that the support obligor's intentional submission of false written statements to the support collection unit for the purpose of frustrating or defeating the lawful enforcement of support obligations is punishable pursuant to section 175.35 of the penal law.

(d) A support obligor who has received a notice that his or her support arrearage shall be referred to the department of taxation and finance for collection action may avoid such action by making payment of all arrears to the support collection unit; providing documentation that shows the support obligor is receiving public assistance, medical assistance, food stamps or supplemental security income; or providing to the support collection unit the documentation sufficient for the support collection unit to determine:

(1) an error in the calculation of the obligor's support arrears which would render the obligor ineligible for collection by the department of taxation and finance; or

(2) a mistake in the identity of the obligor showing that the individual making the challenge is not the obligor identified by the department; or

(3) the absence of an underlying court order for support pursuant to which the obligor's arrears gave rise to eligibility for collection action on such arrears by the department of taxation and finance.

16. Bureaus of special hearings; child support unit. (a) The

department is authorized to establish a bureau of special hearings; child support unit solely for the purposes of providing administrative law judges to decide objections to the determination of a support collection unit to refer an obligor's arrears to the department of taxation and finance for collection pursuant to subdivision nineteen of section one hundred eleven-h of this title. The administrative law judges employed by the unit shall serve exclusively within the unit and shall not be utilized for any purpose other than those described in this subdivision and shall be salaried employees of the department and shall not be removed from such unit except for cause.

(b) The unit shall review a support collection unit's denial of a challenge made by a support obligor pursuant to paragraph two of subdivision nineteen of section one hundred eleven-h of this title if objections thereto are filed by a support obligor who has received notice that the department intends to notify the department of taxation and finance to collect such support obligor's support arrears. Specific written objections to a support collection unit's denial must be submitted by the support obligor to the unit within thirty days of the date of the notice of the support collection unit's denial. A support obligor who files such objections shall serve a copy of the objections upon the support collection unit, which shall have ten days from such service to file a written rebuttal to such objections and a copy of the record upon which the support collection unit's denial was made, including all documentation submitted by the support obligor. Proof of service shall be filed with the unit at the time of filing of objections and any rebuttal. The unit's review shall be based solely upon the record and submissions of the support obligor and the support collection unit upon which the support collection unit's denial was made. Within fifteen days after the rebuttal, if any, is filed, an administrative law judge of the unit shall (i) deny the objections and remand to the support collection unit or (ii) affirm the objections if the administrative law judge finds the determination of the support collection unit is based upon an erroneous determination of fact by the support collection unit. Such decision shall pertain solely to the mistaken identity of the obligor, a prejudicial error in the calculation of the obligor's arrears, the obligor's financial exemption from collection of support arrears by the department of taxation and finance or the absence of an underlying court order establishing arrears to support eligibility for such enforcement. Upon an affirmation of the objections the administrative law judge shall direct the support collection unit not to notify the department of taxation and finance of their authority to collect the support obligor's arrears. Provisions set forth in this subdivision relating to procedures for hearing objections by the unit shall apply solely to such cases and not affect or modify any other procedure for review or appeal of administrative enforcement of child support requirements. The decision of the administrative law

judge pursuant to this section shall be final and not reviewable by the commissioner, and shall be reviewable only pursuant to article seventy-eight of the civil practice law and rules.

17. Special services for review and adjustment. The department shall develop procedures for and require local social services districts to dedicate special staff to the review and adjustment of child support orders entered prior to September fifteenth, nineteen hundred eighty-nine on behalf of children in receipt of public assistance or child support services pursuant to section one hundred eleven-g of this title. Such review and adjustment shall be performed pursuant to subdivisions twelve, thirteen, fourteen, fifteen and sixteen of section one hundred eleven-h of this title. All such cases shall be reviewed and if necessary adjusted no later than December thirty-first, two thousand.

§ 111-c. Functions, powers and duties of social services officials.

1. Each social services district shall establish a single organizational unit which shall be responsible for such district's activities in assisting the state in the location of absent parents, establishment of paternity and enforcement and collection of support in accordance with the regulations of the department.

2. Each social services district shall:

a. obtain assignments to the state and to such district of support rights of each applicant for or recipient of public assistance required to execute such an assignment as a condition of receiving assistance;

b. report to the state all recipients of public assistance with respect to whom a parent has been reported absent from the household;

c. obtain information regarding the income and resources of absent parents whose whereabouts are known, and shall have access to the statement of net worth filed pursuant to section four hundred twenty-four-a of the family court act and supporting documentation in any case where support collection services are being provided as may be necessary to ascertain their ability to support or contribute to the support of their dependents;

d. enforce support obligations owed to the state and to the social services district pursuant to subdivision two of section one hundred eleven-b of this title; and disburse amounts collected as support payments in accordance with the provisions of this chapter and the regulations of the department, including the disbursement to the family in receipt of public assistance of up to the first one hundred dollars for one child, and up to the first two hundred dollars for two or more children, collected as current support;

e. make periodic reports and perform such other functions in accordance with the regulations of the department as may be necessary to assure compliance with federal child support program requirements.

f. confer with a potential respondent, respondent or other interested

person in a proceeding under article four, five, five-A or five-B of the family court act in an attempt to obtain support payments from such potential respondent or respondent;

g. obtain from respondent, when appropriate and in accordance with the procedures established by section one hundred eleven-k of this chapter, an acknowledgement of paternity or an agreement to make support payments, or both;

h. report periodically to consumer reporting agencies (as defined in section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) information regarding past-due support owed by the parent owing support. Such information must be made available whenever a parent who owes past-due support, and shall indicate the name of the parent and the amount of the delinquency. However, such information shall not be made available to (i) a consumer reporting agency that the office determines does not have sufficient capability to systematically and timely make accurate use of such information, or (ii) an entity that has not furnished evidence satisfactory to the office that the entity is a consumer reporting agency. In determining whether a consumer reporting agency lacks sufficient capability to systematically and timely make accurate use of such information, the office may require such agency to demonstrate its ability to comply with the provisions of section three hundred eighty-j of the general business law and any other requirements the office may prescribe by regulation. A social services official, at least ten days prior to making the information available to a consumer reporting agency, must provide notice to the parent who owes the support informing such parent of the proposed release of the information to the consumer reporting agency and informing such parent of the opportunity to be heard and the methods available for contesting the accuracy of the information.

3. Notwithstanding the foregoing, the social services official shall not be required to establish the paternity of any child born out-of-wedlock, or to secure support for any child, with respect to whom such official has determined that such actions would be detrimental to the best interests of the child, in accordance with procedures and criteria established by regulations of the department consistent with federal law.

4. a. A social services district represents the interests of the district in performing its functions and duties as provided in this title and not the interests of any party. The interests of a district shall include, but are not limited to, establishing paternity, and establishing, modifying and enforcing child support orders.

b. Notwithstanding any other provision of law, the provision of child support services pursuant to this title does not constitute nor create an attorney-client relationship between the individual receiving services and any attorney representing or appearing for the district. A social services district shall provide notice to any individual

requesting or receiving services that the attorney representing or appearing for the district does not represent the individual and that the individual has a right to retain his or her own legal counsel.

c. A social services district may appear in any action to establish paternity, or to establish, modify, or enforce an order of support when an individual is receiving services under this title.

§ 111-d. State reimbursement. 1. The provisions of section one hundred fifty-three of this chapter shall be applicable to expenditures by social services districts for activities related to the establishment of paternity of children born out-of-wedlock, the location of deserting parents and the enforcement and collection of support obligations owed to recipients of aid to dependent children and persons receiving services pursuant to section one hundred eleven-g of this title.

2. The local share of expenditures incurred by the department for the provision of centralized collection and disbursement services pursuant to section one hundred eleven-h of this title shall be charged back to social services districts. The local share shall be fifty per centum of the amount expended by the department after first deducting therefrom any federal funds properly received or to be received on account thereof; provided, however, that a social services district's share of the costs related to the centralized collection and disbursement functions shall not exceed those incurred for the year immediately preceding implementation of such functions, except to the extent to which those costs would have increased had centralization of collection and disbursement functions not occurred.

§ 111-e. Reimbursement to the state. 1. A share of any support payments collected by the social services official, less any amount disbursed to the family receiving family assistance, shall, subject to section one hundred eleven-f, be paid to the state as reimbursement toward the amount contributed by the state and federal governments to assistance furnished to such family. Such share shall bear the same ratio to the amounts collected as the state and federal funds bear to assistance granted.

2. Whenever one social services district makes collections on behalf of a person or family for whom another social services district or another state is responsible for providing assistance, the amount collected shall be paid to the district or such other state responsible for providing such assistance, in accordance with the regulations of the department.

§ 111-f. Federal incentives. The department is authorized to distribute to local districts the full amount of federal incentive payments received under title IV-D of the federal social security act.

§ 111-g. Availability of paternity and support services. 1. The office of temporary and disability assistance and the social services districts, in accordance with the regulations of the office of temporary and disability assistance, shall make services relating to the establishment of paternity and the establishment and enforcement of support obligations available to persons not receiving family assistance upon application by such persons. Such persons must apply by (i) completing and signing a form as prescribed by the office of temporary and disability assistance, or (ii) filing a petition with the court or applying to the court in a proceeding for the establishment of paternity and/or establishment and/or enforcement of a support obligation, which includes a statement signed by the person requesting services clearly indicating that such person is applying for child support enforcement services pursuant to this title.

2. The office of temporary and disability assistance may, by regulation, require payment of an application fee for such services and the deduction of costs in excess of such fee from amounts collected on behalf of such persons.

3. (a) A person who is receiving child support services pursuant to this section who has never received assistance pursuant to title IV-A of the federal social security act shall be subject to an annual service fee of twenty-five dollars for each child support case if at least five hundred dollars of support has been collected in the federal fiscal year. Where a custodial parent has children with different noncustodial parents, the order payable by each noncustodial parent shall be a separate child support case for the purpose of imposing an annual service fee. The fee shall be deducted from child support payments received on behalf of the individual receiving services.

(b) In international cases under section 454(32) of the federal social security act which meet the criteria for imposition of the annual service fee under paragraph (a) of this subdivision, the annual service fee shall be imposed but may not be collected from the country requesting services or a person living in another country unless permitted by federal law or regulation.

§ 111-h. Support collection unit. 1. Each social services district shall establish a support collection unit in accordance with regulations of the department to collect, account for and disburse funds paid pursuant to any order of child support or child and spousal support issued under the provisions of section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five, five-A or five-B of the family court act; provided however, that the department, subject to availability of funds, shall furnish centralized

collection and disbursement services for and on behalf of each social services district. Until such time as the department performs collection and disbursement functions for a particular social services district, that social services district shall continue to perform those functions.

* 2. The support collection unit shall inform the petitioner and respondent of any case in which a required payment has not been made within two weeks after it was due and shall assist in securing voluntary compliance with such orders or in preparation and submission of a petition for a violation of a support order. Upon the written request of the debtor, the support collection unit shall issue an income execution as provided in section fifty-two hundred forty-one of the civil practice law and rules, except that the provisions of subdivisions (d) and (e) thereof shall not apply. Upon receipt of written revocation of such request, the support collection unit shall notify the employer or income payor that the levy is no longer effective, and the execution shall be returned.

* NB There are 2 sb 2's

* 2. The support collection unit shall establish a system that will allow it to inform the petitioner and respondent of any case in which a required payment has not been made within two weeks after it was due and to assist in securing voluntary compliance with such orders or in preparation and submission of a petition for a violation of a support order, and shall implement such system no later than July first, nineteen hundred seventy-eight based on a plan submitted to and approved by the department on or before December first, nineteen hundred seventy-seven.

* NB Expired January 1, 1978 (There are 2 sb 2's)

3. The support collection unit shall require that a person applying for child support enforcement services provide his or her name, address and social security number and disclose whether he or she is in receipt of safety net assistance or family assistance; provided, however, that a social security number may be required only where permitted under federal law.

4. Any and all moneys paid into the support collection unit pursuant to an order of support made under the family court act or the domestic relations law, where the petitioner is not a recipient of public assistance, shall upon payment into such support collection unit be deemed for all purposes to be the property of the person for whom such money is to be paid.

5. With respect to any funds paid to the support collection unit established by a social services district pursuant to an order of support under the provisions of article four, five, five-A or five-B of the family court act and which have remained unclaimed for not less than two years after diligent effort to locate the person entitled to such funds, the family court may enter an order decreeing

(a) that the funds be returned to the person who paid the funds

pursuant to the order of support, or

(b) that the funds be deposited with the county treasurer or commissioner of finance of the city of New York, whose duty it shall be to receive such funds and invest them for a period of five years in such securities as are specified by law for investment by savings banks, the interest on such securities to accrue and become part of such funds.

6. If a claimant proves to the satisfaction of the family court within five years after the deposit of funds under paragraph (b) of subdivision five of this section his just and legal claim to any part of the funds, the court may require that repayment shall be made to the claimant as provided by order of the court. The clerk of the court shall issue a certificate under the official seal of the court embodying the terms and provisions of the order and transmit the certificate to the office of the county treasurer or commissioner of finance of the city of New York with whom the funds were deposited. The certificate shall constitute the authority of the county treasurer or commissioner of finance of the city of New York for making such repayment.

7. Upon the expiration of five years from the date of deposit with the county treasurer or commissioner of finance of the city of New York under paragraph (b) of subdivision five of this section, all such funds remaining in the custody of the county treasurer or commissioner of finance of the city of New York shall be paid to the state comptroller pursuant to the provisions of section six hundred two of the abandoned property law and such payment shall be accomplished by the report required by section six hundred three of the abandoned property law.

8. Banks and other fiduciary institutions are authorized and required to report to the support collection unit, when so requested, full information relative to any fund therein deposited by a petitioner or respondent in a proceeding under section two hundred thirty-six or two hundred forty of the domestic relations law or article five-B of the family court act, where there is an order of support payable through the support collection unit or article four, five or five-A of the family court act.

9. Employers are authorized and required to report to the support collection unit, when so requested, full information as to the earnings of a petitioner or respondent in a proceeding under section two hundred thirty-six or two hundred forty of the domestic relations law or article five-B of the family court act, where there is an order of support payable through the support collection unit or article four, five, five-A or five-B of the family court act. Employers also are authorized and required to report to the support collection unit, when so requested, information relating to any group health plans available for the provision of care or other medical benefits by insurance or otherwise for the benefit of the employee and/or the child or children for whom such parties are legally responsible for support.

10. The support collection unit is authorized and required to report

to the family court, when so requested, full information relative to amounts paid or any arrearages by a respondent in a proceeding under articles four, five, five-A or article five-B of the family court act.

11. The department may provide for the performance of the collection and disbursement functions of the support collection units by contract with a fiscal agent. For purposes of any reference to support collection unit in this chapter or any other law, the fiscal agent under contract with the department shall be deemed to be part of all support collection units for which the fiscal agent performs collection and disbursement functions.

12. In any case where the child support order was issued prior to September fifteenth, nineteen hundred eighty-nine in which there is an assignment of support rights or in which a request for an adjustment review is made, the support collection unit shall initiate a one-time review of the order for adjustment purposes unless: (i) the child is in receipt of public assistance, and the support collection unit determines that such review would not be in the best interest of the child or the custodial parent, and neither parent has requested review; or (ii) the child is not in receipt of public assistance and neither parent has requested such review. The support collection unit shall conduct such review in a manner consistent with section four hundred thirteen of the family court act and subdivision one-b of section two hundred forty of the domestic relations law, commonly referred to as the child support guidelines, and the definition of adjustment as set forth in subdivision three of section four hundred thirteen of the family court act and paragraph b of subdivision one of section two hundred forty of the domestic relations law.

13. Upon the conclusion of the adjustment review, the support collection unit shall send the findings of such review by first class mail to the parties, together with a notice describing the rights of the parties to seek adjustment pursuant to applicable provisions of law.

14. Where the support collection unit determines that there is a basis for an upward adjustment, it shall also file a proposed order together with an affidavit in support thereof with the clerk of the appropriate court, and send a copy of such proposed order and affidavit by first class mail to the parties.

15. Where the support collection unit has determined that an adjustment review is appropriate, and the child or children are in receipt of public assistance, the unit shall, at least thirty days before the commencement of such review, notify the parties that the support collection unit will commence review, and provide notice of their obligations pursuant to subdivision sixteen of this section. Such notice shall also be provided, whether or not a child is in receipt of public assistance, upon a request by any party for adjustment review.

16. Such notice shall include a statement that the party must, within thirty-five days of the date of mailing of the notice, send to the

support collection unit:

(i) a current and representative paycheck stub with respect to each source of employment income;

(ii) copies of the most recently filed state and federal income tax returns; and

(iii) a sworn statement of net worth which shall also identify the carrier and policy number of all health insurance currently in place, for the benefit of the obligor and eligible dependents, and whether such coverage has been in place for the previous year.

The notice shall also include a statement that the party may schedule a conference with the support collection unit and submit a written explanation of his or her present tax and financial information to determine the appropriate modification, and thereby may avoid further administrative and judicial proceedings.

The notice shall also state that in the event the party fails to provide such information within thirty-five days of the date of the mailing of the notice, the department of social services shall be entitled to make use of certain tax data from the commissioner of taxation and finance pursuant to section one hundred seventy-one-g of the tax law and section one hundred eleven-c of the social services law to initiate proceedings to adjust the child support order.

17. The department shall develop and disseminate a notice informing both parties to child support orders issued prior to September fifteenth, nineteen hundred eighty-nine, of the availability of the one-time adjustment of child support orders pursuant to the provisions of subdivision three of section four hundred thirteen of the family court act and subdivision four of section two hundred forty of the domestic relations law. The department shall also develop a notice that shall set out the options for adjustment of child support orders issued prior to September fifteenth, nineteen hundred eighty-nine, and the methods for exercising those options. Said notice shall be sent by first class mail to persons in receipt of services pursuant to this title, and shall contain a reply form and envelope with postage pre-paid.

18. The support collection unit shall undertake a public service campaign as soon as practicable to inform citizens of the possibility of driver, business and professional license suspension for support enforcement.

19. (1) A support obligor may challenge in writing the correctness of the determination of the support collection unit pursuant to this section and section one hundred seventy-one-i of the tax law that the obligor's arrearage should be collected through the department of taxation and finance, and in support of the challenge may submit documentation demonstrating mistaken identity, error in calculation of arrears, financial exemption from such collection, the absence of an underlying court order establishing arrears to support such determination. Such documents may include a copy of the order of support

pursuant to which the obligor claims to have made payment, other relevant court orders, copies of cancelled checks, receipts for support payments, pay stubs or other documents identifying wage withholding, proof of identity, and like documents. The support collection unit shall review the documentation submitted by the support obligor, shall adjust the support obligor's account if appropriate, and shall notify the support obligor of the results of the review initiated in response to the challenge within seventy-five days from the date of the notice required. If the support collection unit's review indicates that the determination to refer to the department of taxation and finance for collection was correct, the support collection unit shall notify the support obligor of the results of the review and that the support obligor has thirty days from the date of such notice to satisfy the full amount of the arrears. If the support obligor fails to do so, the support collection unit shall notify the department of taxation and finance that they are authorized to commence collection of the arrears. The support obligor shall be further notified that if the support obligor files objections to the review determination of the support collection unit with the bureau of special hearings; child support unit of the department pursuant to subdivision sixteen of section one hundred eleven-b of this title, and serves these objections on the support collection unit within thirty days from the date of notice denying the challenge, the support collection unit shall not notify the department of taxation and finance of their authority to collect the arrearages until fifteen days after receipt of a decision by the administrative law judge pursuant to such section.

(2) A support obligor may within thirty days of the date of notice denying his or her challenge by the support collection unit file objections to such denial with the bureau of special hearings; child support unit of the department which shall review the support collection unit's determination to refer the obligor's case to the department of taxation and finance for collection pursuant to subdivision sixteen of section one hundred eleven-b of this title. If the support obligor timely files such objections with such bureau the support collection unit shall not notify the department of taxation and finance of their authority to collect the arrearages until fifteen days after entry of an order by the administrative law judge denying the objections.

20. If the support obligor is required to participate in work programs pursuant to section four hundred thirty-seven-a of the family court act, and the court enters an order of support on behalf of the persons in receipt of public assistance, the support collection unit shall not file a petition to increase the support obligation for twelve months from the date of entry of the order of support if the support obligor's income is derived from participation in such programs.

§ 111-i. Child support standards. 1. Each social services district shall ascertain the ability of an absent parent to support or contribute

to the support of his or her children, in accordance with the statewide child support standards as set forth in subdivision one of section four hundred thirteen of the family court act.

2. (a) The commissioner shall publish annually a child support standards chart. The child support standards chart shall include: (i) the revised poverty income guideline for a single person as reported by the federal department of health and human services; (ii) the revised self-support reserved as defined in section two hundred forty of the domestic relations law; (iii) the dollar amounts yielded through application of the child support percentage as defined in section two hundred forty of the domestic relations law and section four hundred thirteen of the family court act; and (iv) the combined parental income amount.

(b) The combined parental income amount to be reported in the child support standards chart and utilized in calculating orders of child support in accordance with subparagraph two of paragraph (c) of subdivision one of section four hundred thirteen of the family court act and subparagraph two of paragraph (c) of subdivision one-b of section two hundred forty of the domestic relations law as of January thirty-first, two thousand fourteen shall be one hundred forty-one thousand dollars; provided, however, beginning January thirty-first, two thousand sixteen and every two years thereafter, the combined parental income amount shall increase by the sum of the average annual percentage changes in the consumer price index for all urban consumers (CPI-U) as published by the United States department of labor bureau of labor statistics for the prior two years multiplied by the current combined parental income amount and then rounded to the nearest one thousand dollars.

(c) The commissioner shall publish the child support standards chart on an annual basis by April first of each year and in no event later than forty-five days following publication of the annual poverty income guideline for a single person as reported by the federal department of health and human services.

§ 111-j. Interception of unemployment insurance benefits. 1. (a) The department shall determine on a periodic basis whether any individual receiving unemployment insurance benefits pursuant to article eighteen of the state's labor law owes child support obligations which are being enforced by the department or the child support enforcement unit of a social services district and shall enforce any child support obligations which are owed by such individual but are not being met through an agreement with such individual to have specific amounts withheld from such benefits otherwise payable to such individual and by submitting a copy of such agreement to the New York state department of labor.

(b) In the absence of such an agreement, the department shall enforce any such child support obligations as authorized by the court in any order establishing such obligations and as otherwise provided by law.

2. Any amounts of unemployment insurance benefits deducted, withheld and paid over by the department of labor pursuant to section five hundred ninety-six of the labor law shall be treated as if it were paid to the person entitled to such compensation and paid by such person to the department or appropriate child support collection unit toward satisfaction of such person's child support obligations. Each agency or district receiving payments deducted by the department of labor shall reimburse that department for the administrative costs attributable thereto.

§ 111-k. Procedures relating to acknowledgments of paternity, agreements to support, and genetic tests. 1. A social services official or his or her designated representative who confers with a potential respondent or respondent, hereinafter referred to in this section as the "respondent", the mother of a child born out of wedlock and any other interested persons, pursuant to section one hundred eleven-c of this title, may obtain:

(a) an acknowledgment of paternity of a child, as provided for in article five-B or section five hundred sixteen-a of the family court act, by a written statement, witnessed by two people not related to the signator or as provided for in section four thousand one hundred thirty-five-b of the public health law. Prior to the execution of such acknowledgment by the child's mother and the respondent, they shall be advised, orally, which may be through the use of audio or video equipment, and in writing, of the consequences of making such an acknowledgment. Upon the signing of an acknowledgment of paternity pursuant to this section, the social services official or his or her representative shall file the original acknowledgment with the registrar.

(b) an agreement to make support payments as provided in section four hundred twenty-five of the family court act. Prior to the execution of such agreement, the respondent shall be advised, orally, which may be through the use of audio or video equipment, and in writing, of the consequences of such agreement, that the respondent can be held liable for support only if the family court, after a hearing, makes an order of support; that respondent has a right to consult with an attorney and that the agreement will be submitted to the family court for approval pursuant to section four hundred twenty-five of the family court act; and that by executing the agreement, the respondent waives any right to a hearing regarding any matter contained in such agreement.

2. (a) When the paternity of a child is contested, a social services official or designated representative may order the mother, the child, and the alleged father to submit to one or more genetic marker or DNA tests of a type generally acknowledged as reliable by an accreditation body designated by the secretary of the federal department of health and

human services and performed by a laboratory approved by such an accreditation body and by the commissioner of health or by a duly qualified physician to aid in the determination of whether or not the alleged father is the father of the child. The order may be issued prior or subsequent to the filing of a petition with the court to establish paternity, shall be served on the parties by certified mail, and shall include a sworn statement which either (i) alleges paternity and sets forth facts establishing a reasonable possibility of the requisite sexual contact between the parties, or (ii) denies paternity and sets forth facts establishing a reasonable possibility that the party is not the father. The parties shall not be required to submit to the administration and analysis of such tests if they sign a voluntary acknowledgment of paternity in accordance with paragraph (a) of subdivision one of this section, or if there has been a written finding by the court that it is not in the best interests of the child on the basis of res judicata, equitable estoppel or the presumption of legitimacy of a child born to a married woman.

(b) The record or report of the results of any such genetic marker or DNA test may be submitted to the family court as evidence pursuant to subdivision (e) of rule forty-five hundred eighteen of the civil practice law and rules where no timely objection in writing has been made thereto.

(c) The cost of any test ordered pursuant to this section shall be paid by the social services district provided however, that the alleged father shall reimburse the district for the cost of such test at such time as the alleged father's paternity is established by a voluntary acknowledgment of paternity or an order of filiation. If either party contests the results of genetic marker or DNA tests, an additional test may be ordered upon written request to the social services district and advance payment by the requesting party.

(d) The parties shall be required to submit to such tests and appear at any conference scheduled by the social services official or designee to discuss the notice of the allegation of paternity or to discuss the results of such tests. If the alleged father fails to appear at any such conference or fails to submit to such genetic marker or DNA tests, the social services official or designee shall petition the court to establish paternity, provide the court with a copy of the records or reports of such tests if any, and request the court to issue an order for temporary support pursuant to section five hundred forty-two of the family court act.

§ 111-m. Agreement relating to information obtained by the state directory of new hires. The department, through the commissioner, shall enter into the agreement provided for in section one hundred seventy-one-h of the tax law, and shall take such other actions as may be necessary to carry out the agreement provided for in such section for matching recipient records of public assistance and of the child support

enforcement program with information provided by employers to the state directory of new hires for the purposes of verifying eligibility for such public assistance programs and for the administration of the child support enforcement program.

§ 111-n. Review and cost of living adjustment of support orders. 1. Orders subject to review. In accordance with the timeframes set forth in subdivision three of this section, the support collection unit shall conduct a review for adjustment purposes of:

(a) all orders of support being enforced pursuant to this title on behalf of persons in receipt of family assistance; and

(b) those orders of support being enforced pursuant to this title on behalf of persons not in receipt of family assistance, for which a request for a cost of living adjustment review has been received from either party to the order.

2. Definitions. For purposes of this section, the following definitions shall be used:

(a) "Adjusted child support obligation amount" shall mean the sum of the cost of living adjustment and the support obligation amount contained in the order under review.

(b) "Adjusted order" shall mean an order issued by the support collection unit reflecting a change to the obligation amount of the most recently issued order of support made on behalf of a child in receipt of family assistance or child support enforcement services pursuant to section one hundred eleven-g of this title.

(c) "Cost of living adjustment" shall mean the amount by which the support obligation is changed as the result of a review, and shall be determined based upon annual average changes to the consumer price index for all urban consumers (CPI-U), as published by the United States department of labor bureau of labor statistics, for the years preceding the year of the review, as follows:

(1) Identify the CPI-U "percent change from the previous annual average" for each year preceding the year of the review, beginning with and including the later of the year in which the most recent order was issued or nineteen hundred ninety-four, and calculate the sum of the percentages for those years.

(2) Where the sum as calculated pursuant to subparagraph one of this paragraph equals or exceeds ten percent, multiply the support obligation in the order under review by such percentage. The product is the cost of living adjustment.

(d) "Order" shall mean an original, modified, or adjusted order of support; or, after a hearing in response to objections to a cost of living adjustment as set forth in an adjusted order of support, the order of support reflecting the application of the child support standards pursuant to section two hundred forty of the domestic

relations law or section four hundred thirteen of the family court act, or an order of no adjustment.

(e) "Review" shall mean the calculation of the cost of living adjustment and the adjusted child support obligation amount by the support collection unit for the most recently issued order of support made on behalf of a child in receipt of family assistance, or child support enforcement services pursuant to section one hundred eleven-g of this title.

3. Timeframes. The review of support orders for cost of living adjustment purposes shall be conducted by the support collection unit in accordance with the following timeframes:

(a) For all orders of support on behalf of persons in receipt of family assistance, a review shall be conducted during the second calendar year following the year in which the order was issued, or the current year, whichever is later. Any cost of living adjustment resulting from a review shall be effective sixty days following the date of the adjusted order, or twenty-four months after the date of the order under review, whichever is later.

(b) For all orders of support on behalf of persons not in receipt of family assistance, a review shall be conducted during the second calendar year following the year in which the order was issued, or the current year, whichever is later; provided, however, that no such review shall occur unless a request for such review has been received from a party to the order. Any cost of living adjustment resulting from a review shall be effective sixty days following the date of the adjusted order, or twenty-four months after the date of the order under review, whichever is later.

4. Adjustment process. (a) A cost of living adjustment shall be made by the support collection unit with respect to each order of support under review, if the sum of the annual average changes of the consumer price index for all urban consumers (CPI-U), as published by the United States department of labor bureau of labor statistics, is ten percent or greater. The child support obligation amount, as increased by the cost of living adjustment calculated during the review, shall be rounded to the nearest dollar. In the event that the sum of the annual average changes of the CPI-U is less than ten percent, no cost of living adjustment shall occur.

(b) Upon the conclusion of the adjustment review, the support collection unit shall issue and send an adjusted order by first class mail to the parties. The cost of living adjustment and the adjusted child support obligation amount as calculated by the review shall be reflected in the adjusted order. The child support obligation amount contained in the adjusted order shall be due and owing on the date the first payment is due under the terms of the order of support which was reviewed and adjusted occurring on or after the effective date of the adjusted order.

(c) The support collection unit shall provide a copy of the adjusted order to the court which issued the most recent order of support, which shall append it to the order.

5. Objections. (a) Where there is an objection to a cost of living adjustment, either party or the support collection unit shall have thirty-five days from the date of mailing of the adjusted order by the support collection unit to submit to the court identified thereon written objections, requesting a hearing on the adjustment of the order of support.

(b) If objections are submitted timely to the court, the cost of living adjustment shall not take effect, and a hearing shall be scheduled by the court. The hearing shall be conducted and a determination made by the court pursuant to section two hundred forty-c of the domestic relations law or section four hundred thirteen-a of the family court act.

(c) Where no objection has been timely raised to a cost of living adjustment as reflected in an adjusted order, such adjusted order shall become final without further review by the court or any judge or support magistrate thereof.

6. Adjusted order - form. The adjusted order shall contain the following information:

(a) the caption of the order of support subject to the review, the date of such order, and the court in which it was entered;

(b) the identification, telephone number, and address of the support collection unit which conducted the review;

(c) the cost of living adjustment and the adjusted child support obligation amount as calculated during the review of the order, and a statement that such amount shall be due and owing on the date the first payment is due under the term of the order of support which was reviewed and adjusted, occurring on or after the effective date of the adjusted order;

(d) the definition of cost of living adjustment;

(e) a statement that the child support obligation amount, as increased by the cost of living adjustment, has been rounded to the nearest dollar;

(f) a statement that all other provisions of the order of support which was reviewed and adjusted remain in full force and effect;

(g) a statement that the application of a cost of living adjustment in no way limits, restricts, expands, or impairs the rights of any party to file for a modification of a child support order as otherwise provided by law;

(h) a statement that where either party objects to the cost of living adjustment, the party has the right to be heard by the court and to present evidence to the court which the court will consider in adjusting the child support order in compliance with section four hundred thirteen of the family court act or section two hundred forty of the domestic

relations law, known as the child support standards act; provided, however, that written objections are filed with the court within thirty-five days from the date the adjusted order was mailed by the support collection unit; that when filing objections the objecting party should attach a copy of the adjusted order, if available; and

(i) a statement that where any party fails to provide, and update upon any change, the support collection unit with a current address to which an adjusted order can be sent, the support obligation amount contained therein shall become due and owing on the date the first payment is due under the order of support which was reviewed and adjusted occurring on or after the effective date of the adjusted order, regardless of whether or not the party has received a copy of the adjusted order.

7. Notice of right to review. On or after the first day of January, nineteen hundred ninety-eight, any order of support twenty-four or more months old which was issued on behalf of a child in receipt of family assistance or child support enforcement services pursuant to section one hundred eleven-g of this title, is eligible for a cost of living adjustment every two years. The support collection unit shall notify the parties to the order of their right to make a written request to the support collection unit for a cost of living adjustment of such support order. Such notice shall contain the amount of the cost of living adjustment, the amount of the adjusted child support obligation, the applicable CPI-U used in the calculation of that amount, the address and telephone number of the support collection unit where assistance can be obtained in commencing an adjustment review, and other information deemed necessary and relevant by the department, and shall be sent to the parties by first class mail at their last known address, and shall contain a reply form and envelope with postage pre-paid. The support collection unit shall provide the notice described herein not less than once every two years.

§ 111-o. Data matches with financial institutions. The department or a social services district, through the commissioner, is authorized to enter into agreements with financial institutions as provided for in subdivision two of section four of the banking law and subsection (e) of section three hundred twenty of the insurance law, and is authorized to furnish to and receive from those and any other financial institutions, as defined in paragraph one of subdivision (d) of section four hundred sixty-nine A of the federal social security act, such information as may be necessary to carry out the agreements provided for in section four of the banking law and section three hundred twenty of the insurance law, for the enforcement of child support orders.

§ 111-p. Authority to issue subpoenas. The department or the child

support enforcement unit coordinator or support collection unit supervisor of a social services district, or his or her designee, or another state's child support enforcement agency governed by title IV-D of the social security act, shall be authorized, whether or not a proceeding is currently pending, to subpoena from any person, public or private entity or governmental agency, and such person, entity or agency shall provide any financial or other information needed to establish paternity and to establish, modify or enforce any support order. If a subpoena is served when a petition is not currently pending, the supreme court or a judge of the family court may hear and decide all motions relating to the subpoena. If the subpoena is served after a petition has been served, the court in which the petition is returnable shall hear and decide all motions relating to the subpoena. Any such person, entity, or agency shall provide the subpoenaed information by the date as specified in the subpoena. Such subpoena shall be subject to the provisions of article twenty-three of the civil practice law and rules. The department or district may impose a penalty for failure to respond to such information subpoenas pursuant to section twenty-three hundred eight of the civil practice law and rules.

§ 111-q. Voiding of fraudulent transfers of income or property. The department or a social services district, or its authorized representative, after obtaining information that a debtor has transferred income, property or other assets to avoid payment to a child support creditor shall, pursuant to article ten of the debtor and creditor law (1) commence a proceeding to void such transfer; or (2) obtain a settlement that is in the best interests of the child support creditor. Provided, however, that no settlement shall reduce or annul any arrears of child support which have accrued prior to the date of settlement.

§ 111-r. Requirement to respond to requests for information. All employers, as defined in section one hundred eleven-m of this article (including for-profit, not-for-profit and governmental employers), are required to provide information promptly on the employment, compensation and benefits of any individual employed by such employer as an employee or contractor, when the department or a social services district or its authorized representative, or another state's child support enforcement agency governed by title IV-D of the social security act, requests such information for the purpose of establishing paternity, or establishing, modifying or enforcing an order of support. To the extent feasible, such information shall be requested and provided using automated systems, and shall include, but is not limited to, information regarding the individual's last known address, date of birth, social security number, plans providing health care or other medical benefits by insurance or otherwise, wages, salaries, earnings or other income of

such individual. Notwithstanding any other provision of law to the contrary, such officials are not required to obtain an order from any judicial or administrative tribunal in order to request or receive such information. The department shall be authorized to impose a penalty for failure to respond to such requests of five hundred dollars for an initial failure and seven hundred dollars for the second and subsequent failure.

§ 111-s. Access to information contained in government and private records. 1. For the purpose of establishing paternity, or establishing, modifying or enforcing an order of support, the department or a social services district or its authorized representative, and child support enforcement agencies of other states established pursuant to title IV-D of the social security act, without the necessity of obtaining an order from any other judicial or administrative tribunal and subject to safeguards on privacy and information security, shall have access to information contained in the following records:

(a) records of other state and local government agencies including:

(i) vital statistics (including records of marriage, birth and divorce);

(ii) state and local tax and revenue records (including information on residence address, employer, income and assets);

(iii) records concerning real and titled personal property;

(iv) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships and other business entities;

(v) employment security records;

(vi) records of agencies administering public assistance programs;

(vii) records of the department of motor vehicles; and

(viii) corrections records; and

(b) certain records held by private corporations, companies, or other entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is being sought), consisting of:

(i) pursuant to an administrative subpoena authorized by section one hundred eleven-p of this title, the names, addresses, telephone numbers and dates of birth of such individuals, and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities companies and corporations, including, but not limited to, cable television, gas, electric, steam, and telephone companies and corporations, as defined in section two of the public service law, doing business within the state of New York; and

(ii) information on such individuals held by financial institutions, including information regarding assets and liabilities.

2. Notwithstanding any other provision of law to the contrary, any

government or private entity to which a request for access to information is directed pursuant to subdivision one of this section, is authorized and required to comply with such request. To the extent feasible, access to such information shall be requested and provided using automated systems. Any government or private entity which discloses information pursuant to this section shall not be liable under any federal or state law to any person for such disclosure, or for any other action taken in good faith to comply with this subdivision.

§ 111-t. Authority to secure assets. The department or a social services district or its authorized representative, or another state's child support enforcement agency governed by title IV-D of the social security act, for the purpose of collecting overdue support, shall be authorized in accordance with all applicable provisions of law, to secure assets otherwise due a support obligor by:

1. intercepting or seizing periodic or lump sum payments due such obligor from:

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

(b) judgments, settlements and lottery winnings;

2. attaching and seizing assets of such obligors which are held in financial institutions;

3. attaching public and private retirement funds of such obligors; and

4. imposing liens against real and personal property owned by such obligors; and where appropriate, forcing the sale of property owned by such obligors and distributing proceeds from the sale of such properties.

§ 111-u. Liens. 1. The office of temporary and disability assistance, or a social services district, or its authorized representative shall have a lien against real and personal property owned by a support obligor when such support obligor is or was under a court order to pay child support or combined child and spousal support to a support collection unit on behalf of persons receiving services under this title, and such obligor has accumulated support arrears/past due in an amount equal to or greater than the amount of support due pursuant to such order for a period of four months. Such lien shall incorporate unpaid support which accrues in the future.

2. For the purposes of determining whether a support obligor has accumulated support arrears/past due support for a period of four months, the amount of any retroactive support, other than periodic payments of retroactive support which are past due, shall not be included in the calculation of arrears/past due support pursuant to this

section; however, if at least four months of support arrears/past due support have accumulated subsequent to the date of the court order, the entire amount of any retroactive support may be collected pursuant to the provisions of this subdivision or as otherwise authorized by law.

3. When the office of temporary and disability assistance, or a social services district, or its authorized representative on behalf of a person receiving services pursuant to this title determines that the requisite amount of child support is past due, it shall send, by first class mail, a notice of intent to file a lien to the support obligor. The obligor may assert a mistake of fact and shall have an opportunity to make a submission in support of the assertion. The assertion and any supporting papers shall be submitted within thirty-five days from the date a notice was mailed. Thereafter, the social services district shall determine the merits of the assertion, and shall notify the obligor of its determination within ninety days after notice to the obligor was mailed.

4. If the social services district finds no mistake of fact exists or, the obligor fails to assert a mistake of fact within the thirty-five days, the social services district may file a notice of lien, which shall contain the caption of the support order and a statement of arrears and which shall constitute a lien on the property. The social services district shall not enforce its lien until after expiration of any applicable period for review of an administrative action or, if the obligor has initiated a proceeding pursuant to article seventy-eight of the civil practice law and rules, until completion of such review.

5. Filing of the notice of the lien shall be as provided in sections sixty-five and two hundred eleven of the lien law, article forty-six of the vehicle and traffic law, or as otherwise authorized by law.

6. Within five days before or thirty days after filing the notice of the lien, the social services district shall send by first class mail a copy of such notice upon the owner of the property.

§ 111-v. Confidentiality, integrity, and security of information. 1.

The department, in consultation with appropriate agencies including but not limited to the New York state office for the prevention of domestic violence, shall by regulation prescribe and implement safeguards on the confidentiality, integrity, accuracy, access, and the use of all confidential information and other data handled or maintained, including data obtained pursuant to section one hundred eleven-o of this article and including such information and data maintained in the automated child support enforcement system. Such information and data shall be maintained in a confidential manner designed to protect the privacy rights of the parties and shall not be disclosed except for the purpose of, and to the extent necessary to, establish paternity, or establish, modify or enforce an order of support.

2. These safeguards shall include provisions for the following:

(a) Policies restricting access to and sharing of information and data, including:

(1) safeguards against unauthorized use or disclosure of information relating to procedures or actions to establish paternity or to establish or enforce support;

(2) prohibitions against the release of information on the whereabouts of one party to another party against whom an order of protection with respect to the former party has been entered; and

(3) prohibitions against the release of information on the whereabouts of one party to another party if the department has reason to believe that the release of the information may result in the physical or emotional harm to the former party.

(b) Systems controls to ensure strict adherence to policies.

(c) Monitoring of access to and use of the automated system to prevent unauthorized access or use.

(d) Training in security procedures for all staff with access, and provisions of information regarding these requirements and penalties.

(e) Administrative penalties for unauthorized access, disclosure, or use of confidential data.

3. If any person discloses confidential information in violation of this section, any individual who incurs damages due to the disclosure may recover such damages in a civil action.

4. Any person who willfully releases or permits the release of any confidential information obtained pursuant to this title to persons or agencies not authorized by this title or regulations promulgated thereunder to receive it shall be guilty of a class A misdemeanor.

5. The safeguards established pursuant to this section shall apply to staff of the department, local social services districts, and any contractor.