

1 (b) (i) The date, time, place of birth, and required medical information shall be certified
2 by the birthing facility administrator or his designee.

3 (ii) The attending physician or nurse midwife may sign the certificate, but if the attending
4 physician or nurse midwife has not signed the certificate within seven days of the date of birth, the
5 birthing facility administrator or his designee shall enter the attending physician's or nurse
6 midwife's name and transmit the certificate to the local registrar.

7 (iii) The information on the certificate about the parents shall be provided and certified by
8 the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

9 (4) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the
10 administrator or director of that facility, or his designee, shall:

11 (i) provide the birth mother and biological father, if present, with:

12 (A) a voluntary declaration of paternity form published by the state registrar;

13 ~~[(ii) provide]~~ (B) oral and written notice to the birth mother and biological father of the
14 alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing
15 the declaration; and

16 (C) the opportunity to sign the declaration;

17 ~~[(iii) (ii) [provide notarization of] witness the [signatures required on the form] signature~~
18 of a birth mother or biological father in accordance with Section 78-45e-3 if the signature occurs
19 at the hospital;

20 ~~[(iv)] (iii)~~ enter the biological father's information on the original birth certificate, but only
21 if the mother and biological father have signed a voluntary declaration of paternity or a court or
22 administrative agency has issued an adjudication of paternity; and

23 ~~[(v)] (iv)~~ file the completed declaration with the original birth certificate.

24 (b) The state registrar shall file the information provided on the voluntary declaration of
25 paternity form with the original birth certificate and may provide certified copies of the declaration
26 of paternity as otherwise provided under Title 78, Chapter 45e, Voluntary Declaration of Paternity
27 Act.

28 (5) (a) For live births that occur outside a birthing facility, the certificate shall be
29 completed and filed by the physician, nurse, midwife, or other person primarily responsible for
30 providing assistance to the mother at the birth. If there is no such person, the father shall complete
31 and file the certificate. In his absence, the mother shall complete and file the certificate, and in the

1 event of her death or disability, the owner or operator of the premises where the birth occurred
2 shall do so.

3 (b) The certificate shall be completed as fully as possible and shall include the date, time,
4 and place of birth, the mother's name, and the signature of the person completing the certificate.

5 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
6 a description of the process for filing a voluntary declaration of paternity, and of the rights and
7 responsibilities established or effected by that filing, in accordance with Title 78, Chapter 45e,
8 Voluntary Declaration of Paternity Act.

9 (b) Information regarding the form and services related to voluntary paternity
10 establishment shall be made available to birthing facilities and to any other entity or individual
11 upon request.

12 (7) The name of a father may only be included on the birth certificate of a child of
13 unmarried parents if:

14 (a) the mother and father have signed a voluntary declaration of paternity; or

15 (b) a court or administrative agency has issued an adjudication of paternity.

16 (8) Voluntary declarations of paternity and adjudications of paternity by judicial or
17 administrative agencies shall be filed with and maintained by the state registry for the purpose of
18 comparing information with the state case registry maintained by the Office of Recovery Services
19 pursuant to Section 62A-11-104.

20 Section 2. Section **35A-3-108** is amended to read:

21 **35A-3-108. Assignment of support.**

22 (1) (a) The division shall obtain an assignment of support from each applicant or client
23 regardless of whether the payment is court ordered.

24 (b) ~~[Any right to support from any other person that has accrued at the time the assignment~~
25 ~~is executed and that will accrue during receipt of assistance or, if none is executed, at the time of~~
26 ~~application for assistance, passes to the division upon] Upon the receipt of assistance, any right
27 to receive support from another person passes to the state, even if the client has not executed and
28 delivered an assignment to the division as required by Subsection (1)(a).~~

29 (c) The right to support described in Subsection (1)(b) includes a right to support in the
30 applicant's or client's own behalf or in behalf of any family member for whom the applicant or
31 client is applying for or receiving assistance.

1 (2) An assignment of support or a passing of rights under Subsection (1)(b) includes
2 payments ordered, decreed, or adjudged by any court within this state, any other state, or territory
3 of the United States and is not in lieu of, and shall not supersede or alter, any other court order,
4 decree, or judgment.

5 (3) When an assignment is executed or the right to support passes to the department under
6 Subsection (1)(b), the applicant or client is eligible to regular monthly assistance and the support
7 paid to the division is a refund.

8 (4) All sums refunded, except any amount which is required to be credited to the federal
9 government, shall be deposited into the General Fund.

10 (5) On and after the date a family stops receiving cash assistance, an assignment of support
11 under Subsection (1) shall not apply to any support that accrued before the family received such
12 assistance if the department has not collected the support by[: (a) ~~September 30, 2000, if the~~
13 ~~assignment is executed on or after October 1, 1997, and before October 1, 2000; or (b)] the date~~
14 the family stops receiving cash assistance, if the assignment is executed on or after October 1,
15 [2000] 1998.

16 (6) The department shall distribute arrearages to families in accordance with the Social
17 Security Act, 42 U.S.C. Sec. 657.

18 (7) The total amount of child support assigned to the department and collected under this
19 section may not exceed the total amount of cash assistance received by the recipient.

20 Section 3. Section **62A-11-504** is amended to read:

21 **62A-11-504. Procedures for commencing income withholding.**

22 (1) If income withholding has not been commenced in connection with a child support
23 order, an obligee or obligor may commence income withholding by:

24 (a) applying for IV-D services from the office; or

25 (b) filing an ex parte motion for income withholding with a district court of competent
26 jurisdiction.

27 (2) The office shall commence income withholding in accordance with Part 4 of this
28 chapter upon receipt of an application for IV-D services under Subsection (1)(a).

29 (3) A court shall grant an ex parte motion to commence income withholding filed under
30 Subsection (1)(b) regardless of whether the child support order provided for income withholding,
31 if the obligee provides competent evidence showing:

1 (a) the child support order was issued or modified after January 1, 1994, and the obligee
2 or obligor expresses a desire to commence income withholding;

3 (b) the child support order was issued or modified after January 1, 1994, and the order
4 contains a good cause exception to income withholding as provided for in Section 62A-11-502,
5 and a delinquency has occurred; or

6 (c) the child support order was issued or modified before January 1, 1994, and a
7 delinquency has occurred.

8 (4) If a court grants an ex parte motion under Subsection (3), the court shall order the clerk
9 of the court or the requesting party to:

10 (a) mail written notice to the payor at the payor's last-known address that contains the
11 information required by Section 62A-11-506;

12 (b) mail a copy of the written notice sent to the payor under Subsection (4)(a) to the [new
13 requesting] nonrequesting party's address and a copy of the support order and the notice to the
14 payor to the office; and

15 (c) if the obligee is the requesting party, send notice to the obligor under Section
16 62A-11-304.4 that includes:

17 (i) a copy of the notice sent to the payor; and

18 (ii) information regarding:

19 (A) the commencement of income withholding; and

20 (B) the opportunity to contest the withholding or the amount withheld due to mistake of
21 fact by filing an objection with the court within 20 days.

22 (5) A payor who receives written notice under Subsection (4)(a) shall comply with the
23 requirements of Section 62A-11-507.

24 (6) If an obligor contests withholding, the court shall:

25 (a) provide an opportunity for the obligor to present evidence supporting his claim of a
26 mistake of fact;

27 (b) decide whether income withholding should continue;

28 (c) notify the parties of the decision; and

29 (d) at the obligor's option, return or credit toward the most current and future support
30 payments of the obligor any amount mistakenly withheld plus interest at the legal rate.

31 Section 4. Section **78-45-7.1** is amended to read:

1 **78-45-7.1. Medical expenses of dependent children -- Assigning responsibility for**
2 **payment -- Insurance coverage -- Income withholding.**

3 The court shall include the following in its order:

4 (1) a provision assigning responsibility for the payment of reasonable and necessary
5 medical expenses for the dependent children;

6 (2) a provision requiring the purchase and maintenance of appropriate insurance for the
7 medical expenses of dependent children, if coverage is or becomes available at a reasonable cost;
8 and

9 (3) provisions for income withholding, in accordance with Title 62A, Chapter 11, Parts
10 4 and 5[; and].

11 ~~[(4) with regard to child support orders issued or modified on or after January 1, 1994, that~~
12 ~~are subject to income withholding, an order assessing against the obligor an additional \$7 per~~
13 ~~month check processing fee to be included in the amount withheld and paid to the Office of~~
14 ~~Recovery Services within the Department of Human Services for the purposes of income~~
15 ~~withholding in accordance with Title 62A, Chapter 11, Parts 4 and 5.]~~

16 Section 5. Section **78-45e-3** is amended to read:

17 **78-45e-3. Requirements for filing.**

18 A voluntary declaration of paternity may not be filed with the state registrar unless the
19 declaration:

20 (1) is signed by the birth mother and biological father, and by the legal guardian or a
21 parent of a biological father who is under 18 years of age[;], in the presence of two witnesses who
22 are not related by blood or marriage; and

23 ~~[(2) includes a jurat, as defined in Section 46-1-2, for the biological mother and father, and~~
24 ~~an acknowledgment, as defined in Section 46-1-2 for a guardian or parent who may be required~~
25 ~~to sign the declaration; and]~~

26 ~~[(3)]~~ (2) the mother and alleged father have been given notice, orally and in writing, of the
27 alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing
28 the declaration.

Legislative Review Note
as of 1-26-98 3:30 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel