

Wyoming Divorce Laws

Title 20 Domestic Relations

CHAPTER 1 HUSBAND AND WIFE

ARTICLE 1 CREATION OF MARRIAGE

20-1-101. Marriage a civil contract.

Marriage is a civil contract between a male and a female person to which the consent of the parties capable of contracting is essential.

CHAPTER 2 DISSOLUTION OF MARRIAGE

ARTICLE 1 IN GENERAL

20-2-101. Void and voidable marriages defined; annulments.

- (a) Marriages contracted in Wyoming are void without any decree of divorce:
 - (i) When either party has a husband or wife living at the time of contracting the marriage;
 - (ii) When either party is mentally incompetent at the time of contracting the marriage;
 - (iii) When the parties stand in the relation to each other of parent and child, grandparent and grandchild, brother and sister of half or whole blood, uncle and niece, aunt and nephew, or first cousins, whether either party is illegitimate. This paragraph does not apply to persons not related by consanguinity.
- (b) A marriage is voidable if solemnized when either party was under the age of legal consent unless a judge gave consent, if they separated during nonage and did not cohabit together afterwards, or if the consent of one (1) of the parties was obtained by force or fraud and there was no subsequent voluntary cohabitation of the parties.
- (c) Either party may file a petition in the district court of the county where the parties or one (1) of them reside, to annul a marriage for reasons stated in subsections (a) and (b) of this section and proceedings shall be held as in the case of a petition for divorce except as otherwise provided. Upon due proof the marriage shall be declared void by a decree of nullity.
- (d) An action to annul a marriage on the ground that one of the parties was under the age of legal consent provided by W.S. 20-1-102(a) may be filed by the parent or guardian entitled to the custody of the minor. The marriage may not be annulled on the application of a party who was of the age of legal consent at the time of the marriage nor when it appears that the parties, after they had attained the age of consent, had freely cohabited as man and wife.
- (e) An action to annul a marriage on the grounds of mental incompetency may be commenced on behalf of a mentally incompetent person by his guardian or next friend. A mentally incompetent person restored to competency may maintain an action of annulment, but no decree may be granted if the parties freely cohabited as husband and wife after restoration of competency.
- (f) An action to annul a marriage on the grounds of physical incapacity may only be maintained by the injured party against the party whose incapacity is alleged and may only be commenced within two (2) years from the solemnization of the marriage.
- (g) All decrees of annulment may include provisions for the custody and support of children pursuant to this article, W.S. 20-2-201 through 20-2-204 and 20-2-301 through 20-2-315 and for the division of property pursuant to W.S. 20-2-131.

20-2-102. Petition by spouse for support.

When the husband and wife are living separately, or when they are living together but one (1) spouse does not support the other spouse or children within his means, and no proceeding for divorce is pending, the other spouse or the department of family services may institute a proceeding for support. No less than five (5) days after notice is personally served upon the nonsupporting spouse, the court may hear the petition and grant such order concerning the support of the spouse or children as it might grant were it based on a proceeding for divorce. If the nonsupporting spouse cannot be personally served within this state but has property within the

jurisdiction of the court, or debts owing to him, the court may order such constructive service as appears sufficient and proper and may cause an attachment of the property. Upon completion of constructive service the court may grant relief as if personal service was had.

20-2-103. Petition to affirm marriage.

When the validity of any marriage is denied by either party, the other party may file a petition to affirm the marriage. Upon due proof of the validity thereof, it shall be declared valid by a decree of the court which is conclusive upon all persons concerned.

20-2-104. Causes for divorce generally; venue generally.

A divorce may be decreed by the district court of the county in which either party resides on the complaint of the aggrieved party on the grounds of irreconcilable differences in the marital relationship.

20-2-105. Divorce action for insanity; when permitted; conditions to bringing action; liability for support.

(a) A divorce may be granted when either party has become incurably insane and the insane person has been confined in a mental hospital of this state or of another state or territory for at least two (2) years immediately preceding the commencement of the action for divorce.

(b) Upon the filing of a verified complaint showing that a cause of action exists under this section, the district court shall appoint some person to act as guardian of the insane person in the action. The summons and complaint in the action shall be served upon the defendant by delivering a copy of the summons and complaint to the guardian and to the county attorney of the county in which the action is brought.

(c) The county attorney upon whom the summons and complaint is served shall appear for and defend the defendant in the action. No divorce shall be granted under this section except in the presence of the county attorney.

(d) In any action brought under this section, the district courts possess all the powers relative to the payment of alimony, the distribution of property and the care, custody and maintenance of the children of the parties as in other actions for divorce.

(e) Costs in the action, as well as the actual expenses of the county attorney and the expenses and fees of the guardian, shall be paid by the plaintiff. The expenses of the county attorney and expenses and fees of the guardian shall be fixed and allowed by the court, and the court may make such order as to the payment of fees and expenses as may seem proper.

20-2-106. Judicial separation; procedure; powers of court; defenses.

(a) When circumstances are such that grounds for a divorce exist, the aggrieved party may institute a proceeding by complaint in the same manner as if petitioner were seeking a decree of divorce, but praying instead to be allowed to live separate and apart from the offending party.

(b) No separation by decree entered hereunder shall be grounds for a divorce on the grounds of desertion or two (2) year separation unless those grounds existed at the time of petitioning for judicial separation. A decree of divorce may be granted after the decree of judicial separation is entered upon proper grounds arising thereafter.

(c) The court may make such orders as appear just, including custody of the children, provision for support, disposition of the properties of the parties, alimony, restraint of one (1) or both spouses during litigation and restraint of disposition of property. The court may impose a time limitation on the order or render a perpetual separation. The parties may at any time move the court to be discharged from the order.

(d) All defenses available in an action for divorce are available under this section.

20-2-107. Residential requirements generally for plaintiffs.

(a) No divorce shall be granted unless the plaintiff has resided in this state for sixty (60) days immediately preceding the time of filing the complaint, or the marriage was solemnized in this state and the plaintiff has resided in this state from the time of the marriage until the filing of the complaint.

(b) A married person who at the time of filing a complaint for divorce resides in this state is a resident although his spouse may reside elsewhere.

20-2-108. Action conducted as civil action.

Actions to annul or affirm a marriage, for a divorce or to establish any order regarding the maintenance or custody of children shall be conducted in the same manner as civil actions, and the court may decree costs and enforce its decree as in other cases, except a divorce decree shall not be entered less than twenty (20) days from the date the complaint is filed.

20-2-109. Restraining orders concerning property or pecuniary interests during litigation.

If after filing a complaint for divorce it appears probable to the court that either party is about to do any act that would defeat or render less effective any order which the court might ultimately make concerning property or pecuniary interests, an order shall be made for the prevention thereof and such process issued as the court deems necessary or proper.

20-2-110. Restraint during litigation.

After the filing of a complaint for divorce or to annul a marriage, on the petition of either party the court may prohibit the other party from imposing any restraint upon the petitioner's personal liberty during the pendency of the action.

20-2-111. Alimony during pendency of action; allowances for prosecution or defense of action; costs.

In every action brought for divorce, the court may require either party to pay any sum necessary to enable the other to carry on or defend the action and for support and the support of the children of the parties during its pendency. The court may decree costs against either party and award execution for the costs, or it may direct costs to be paid out of any property sequestered, in the power of the court, or in the hands of a receiver. The court may also direct payment to either party for such purpose of any sum due and owing from any person.

20-2-112. Examination concerning property interests; enforcement of court orders; temporary custody of children.

(a) In a proceeding for divorce, the court may cause the attendance of either party and compel an answer under oath concerning his property, rights or interests, or money that he may have or money due or to become due to him from others, and make such order thereon as is just and equitable. To enforce its orders concerning alimony, temporary or permanent, or property or pecuniary interests, the court may require security for obedience thereto, or may enforce the orders by attachment, commitment, injunction or by other means.

(b) On the application of either party, the court may make such order concerning the care and custody of the minor children of the parties and their suitable maintenance during the pendency of the action as is proper and necessary and may enforce its order and decree in the manner provided in subsection (a) of this section. The party applying for the order shall notify the court of any known protection or custody orders issued on behalf of the parties from any other court. The court shall consider evidence of spouse abuse or child abuse as being contrary to the best interest of the children. If the court finds that family violence has occurred, the court shall make arrangements for visitation during temporary custody that best protect the children and the abused spouse from further harm.

20-2-114. Disposition of property to be equitable; factors; alimony generally.

In granting a divorce, the court shall make such disposition of the property of the parties as appears just and equitable, having regard for the respective merits of the parties and the condition in which they will be left by the divorce, the party through whom the property was acquired and the burdens imposed upon the property for the benefit of either party and children. The court may decree to either party reasonable alimony out of the estate of the other having regard for the

other's ability to pay and may order so much of the other's real estate or the rents and profits thereof as is necessary be assigned and set out to either party for life, or may decree a specific sum be paid by either party.

20-2-115. Amended and Renumbered as 20-2-314 By Laws 2000, Ch. 34, § 2.

20-2-116. Revision of alimony and other allowances.

After a decree for alimony or other allowance for a party or children and after a decree for the appointment of trustees to receive and hold any property for the use of a party or children pursuant to W.S. 20-2-314, the court may from time to time, on the petition of either of the parties, revise and alter the decree respecting the amount of the alimony or allowance or the payment thereof and respecting the appropriation and payment of the principal and income of the property so held in trust and may make any decree respecting any of the matters which the court might have made in the original action.

ARTICLE 2 CUSTODY AND VISITATION

20-2-201. Disposition and maintenance of children in decree or order; access to records.

(a) In granting a divorce, separation or annulment of a marriage or upon the establishment of paternity pursuant to W.S. 14-2-401 through 14-2-907, the court may make by decree or order any disposition of the children that appears most expedient and in the best interests of the children. In determining the best interests of the child, the court shall consider, but is not limited to, the following factors:

- (i) The quality of the relationship each child has with each parent;
- (ii) The ability of each parent to provide adequate care for each child throughout each period of responsibility, including arranging for each child's care by others as needed;
- (iii) The relative competency and fitness of each parent;
- (iv) Each parent's willingness to accept all responsibilities of parenting, including a willingness to accept care for each child at specified times and to relinquish care to the other parent at specified times;
- (v) How the parents and each child can best maintain and strengthen a relationship with each other;
- (vi) How the parents and each child interact and communicate with each other and how such interaction and communication may be improved;
- (vii) The ability and willingness of each parent to allow the other to provide care without intrusion, respect the other parent's rights and responsibilities, including the right to privacy;
- (viii) Geographic distance between the parents' residences;
- (ix) The current physical and mental ability of each parent to care for each child;
- (x) Any other factors the court deems necessary and relevant.

(b) In any proceeding in which the custody of a child is at issue the court shall not prefer one (1) parent as a custodian solely because of gender.

(c) The court shall consider evidence of spousal abuse or child abuse as being contrary to the best interest of the children. If the court finds that family violence has occurred, the court shall make arrangements for visitation that best protects the children and the abused spouse from further harm.

(d) The court shall order custody in well defined terms to promote understanding and compliance by the parties. Custody shall be crafted to promote the best interests of the children, and may include any combination of joint, shared or sole custody.

(e) Unless otherwise ordered by the court, the noncustodial parent shall have the same right of access as the parent awarded custody to any records relating to the child of the parties, including school records, activities, teachers and teachers' conferences as well as medical and dental treatment providers and mental health records.

(f) At any time the court may require parents to attend appropriate parenting classes, including but not limited to, parenting classes to lessen the effects of divorce on children.

20-2-202. Visitation.

(a) The court may order visitation it deems in the best interests of each child and the court shall:

- (i) Order visitation in enough detail to promote understanding and compliance;
- (ii) Provide for the allocation of the costs of transporting each child for purposes of visitation;
- (iii) Require either parent who plans to change their home city or state of residence, to give written notice thirty (30) days prior to the move, both to the other parent and to the clerk of district court stating the date and destination of the move.

20-2-203. Jurisdiction for enforcement and modification.

(a) A court in this state which enters a custody order under W.S. 20-2-201 has continuing subject matter jurisdiction to enforce or modify the decree concerning the care, custody and visitation of the children as the circumstances of the parents and needs of the child require, subject to the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act. A court which has jurisdiction to enforce or modify an order under this section may decline to exercise its jurisdiction if it finds it is an inconvenient forum under the circumstances of the case and that the court which entered the original order is a more appropriate forum and has jurisdiction as set forth in the Uniform Child Custody Jurisdiction and Enforcement Act.

(b) A court in any county in Wyoming in which the child has lived with his parents, a parent or a person acting as a parent for six (6) consecutive months immediately prior to commencement of the custody proceeding may assert subject matter jurisdiction and adjudicate any proceedings involving the child. Periods of temporary absence of any of the named persons shall be included as part of the six (6) month period.

(c) Any party seeking to enforce or modify a custody order pursuant to this section shall attach a certified copy of the custody order to the petition to be enforced or modified. A certified copy of an order entered by a Wyoming court providing for the care, custody or visitation of children may be filed in the office of the clerk of the district court of any county in this state in which either parent resides if neither parent resides in the county of original jurisdiction. The district court for the county in which the order is filed has jurisdiction to enforce the order, provided:

(i) Upon request of the district court for the county in which a certified copy of the order has been filed, the court which originally entered the order shall forward certified copies of the transcript of the court record and pleadings, orders, decrees, records of hearings, social studies and other pertinent documents relating to the original proceeding; and

(ii) The district court for the county in which a certified copy of the order has been filed shall give due consideration to the transcript of the record and all other documents submitted to it in accordance with paragraph (i) of this subsection.

(d) In any proceeding to enforce or modify an order concerning the care, custody and visitation of children, any required notice or pleading shall be served as provided by the Wyoming Rules of Civil Procedure.

20-2-204. Enforcement and modification.

(a) Either parent may petition to enforce or modify any court order regarding custody and visitation.

(b) A court having jurisdiction under W.S. 20-2-203 may, upon appropriate motion of a party, require a parent to appear before the court and show just cause why the parent should not be held in contempt, upon a showing that the parent has willfully violated an order concerning the care, custody and visitation of the children. In order to enforce and require future compliance with an order the court may find that the parent is in contempt of court, award attorney's fees, costs and any other relief as the court may deem necessary under the circumstances to the party aggrieved by the violation of an order.

(c) A court having jurisdiction may modify an order concerning the care, custody and visitation of the children if there is a showing by either parent of a material change in circumstances since the entry of the order in question and that the modification would be in the best interests of the children pursuant to W.S. 20-2-201(a). In any proceeding in which a parent seeks to modify an order concerning child custody or visitation, proof of repeated, unreasonable failure by the custodial parent to allow visitation to the other parent in violation of an order may be considered as evidence of a material change of circumstances.

ARTICLE 3 CHILD SUPPORT

20-2-301. Purpose.

Where necessary and appropriate, the court shall enter orders, whether temporary or permanent, pursuant to and in compliance with this article for the maintenance of children in actions for divorce, annulment, paternity, support, out-of-home placement and any other action for the maintenance or support of children.

20-2-302. Applicability.

This article applies to all orders for the support or maintenance of children.

20-2-303. Definitions.

(a) As used in this article:

(i) "Age of majority" means as defined in W.S. 14-1-101(a) or 14-2-204(a), whichever is applicable;

(ii) "Income" means any form of payment or return in money or in kind to an individual, regardless of source. Income includes, but is not limited to wages, earnings, salary, commission, compensation as an independent contractor, temporary total disability, permanent partial disability and permanent total disability worker's compensation payments, unemployment compensation, disability, annuity and retirement benefits, and any other payments made by any payor, but shall not include any earnings derived from overtime work unless the court, after considering all overtime earnings derived in the preceding twenty-four (24) month period, determines the overtime earnings can reasonably be expected to continue on a consistent basis. In determining income, all reasonable unreimbursed legitimate business expenses shall be deducted. Means tested sources of income such as Pell grants, aid under the personal opportunities with employment responsibilities (POWER) program, food stamps and supplemental security income (SSI) shall not be considered as income. Gross income also means potential income of parents who are voluntarily unemployed or underemployed;

(iii) "Net income" means income as defined in paragraph (ii) of this subsection less personal income taxes, social security deductions, cost of dependent health care coverage for all dependent children, actual payments being made under preexisting support orders for current support of other children, other court-ordered support obligations currently being paid and mandatory pension deductions. Payments towards child support arrearage shall not be deducted to arrive at net income;

(iv) "This article" means W.S. 20-2-301 through 20-2-315.

20-2-304. Presumptive child support.

(a) Child support shall be expressed in a specific dollar amount. The following child support tables shall be used to determine the total child support obligation considering the combined income of both parents. The appropriate table is based upon the number of children for whom the parents share joint legal responsibility and for whom support is being sought. After the combined net income of both parents is determined it shall be used in the first column of the tables to find the appropriate line from which the total child support obligation of both parents can be computed from the third column. The child support obligation computed from the third column of the tables shall be divided between the parents in proportion to the net income of each. The noncustodial parent's share of the joint child support obligation shall be paid to the custodial parent through the clerk of court:

(i) One (1) child:

Net Monthly Income of	Percentage of Income	
Both Parents	Allocated For One Child	Base Support Plus Marginal Percentage

\$833.00	26.2	\$218.00 + 24.3% over \$ 833.00
\$2,083.00	25.1	\$522.00 + 23.3% over \$2,083.00
\$2,917.00	24.6	\$716.00 + 12.9% over \$2,917.00
\$3,750.00	22.0	\$824.00 + 10.7% over \$3,750.00
\$5,000.00	19.2	\$958.00 + 9.9% over \$5,000.00
\$6,667.00	16.8	\$1,122.00 + 9.4% over \$6,667.00
\$8,958.00	14.9	\$1,338.00 + 5.9% of anything over \$8,958.00

(ii) Two (2) children:

Net Monthly Income of	Percentage of Income	
Both Parents	Allocated For Two Children	Base Support Plus Marginal Percentage
\$833.00	36.8	\$307.00 + 33.8% over \$ 833.00
\$2,083.00	35.0	\$729.00 + 31.9% over \$2,083.00
\$2,917.00	34.1	\$995.00 + 16.4% over \$2,917.00
\$3,750.00	30.2	\$1,131.00 + 13.1% over \$3,750.00
\$5,000.00	25.9	\$1,295.00 + 12.5% over \$5,000.00
\$6,667.00	22.5	\$1,503.00 + 12.5% over \$6,667.00
\$8,958.00	20.0	\$1,790.00 + 7.0% of anything over \$8,958.00

(iii) Three (3) children:

Net Monthly Income of	Percentage of Income	
Both Parents	Allocated For Three Children	Base Support Plus Marginal Percentage
\$833.00	42.7	\$356.00 + 38.7% over \$ 833.00
\$2,083.00	40.3	\$840.00 + 36.4% over \$2,083.00
\$2,917.00	39.2	\$1,144.00 + 16.8% over \$2,917.00
\$3,750.00	34.2	\$1,284.00 + 13.3% over \$3,750.00
\$5,000.00	29.0	\$1,450.00 + 13.7% over \$5,000.00

\$6,667.00	25.2	\$1,677.00 + 12.2% over \$6,667.00
\$8,958.00	21.9	\$1,958.00 + 7.7% of anything over \$8,958.00

(iv) Four (4) children:

Net Monthly Income of Both Parents	Percentage of Income Allocated For Four Children	Base Support Plus Marginal Percentage
\$833.00	47.6	\$ 397.00 + 43.2% over \$ 833.00
\$2,083.00	45.0	\$ 937.00 + 40.6% over \$2,083.00
\$2,917.00	43.7	\$1,275.00 + 18.7% over \$2,917.00
\$3,750.00	38.2	\$1,431.00 + 14.8% over \$3,750.00
\$5,000.00	32.3	\$1,616.00 + 15.2% over \$5,000.00
\$6,667.00	28.1	\$1,870.00 + 13.7% over \$6,667.00
\$8,958.00	24.4	\$2,183.00 + 8.6% of anything over \$8,958.00

(v) Five (5) or more children:

Net Monthly Income of Both Parents	Percentage of Income Allocated For Five Children	Base Support Plus Marginal Percentage
\$833.00	52.4	\$ 436.00 + 47.5% over \$ 833.00
\$2,083.00	49.5	\$1,030.00 + 44.7% over \$2,083.00
\$2,917.00	48.1	\$1,403.00 + 20.6% over \$2,917.00
\$3,750.00	42.0	\$1,575.00 + 16.3% over \$3,750.00
\$5,000.00	35.6	\$1,778.00 + 16.8% over \$5,000.00
\$6,667.00	30.9	\$2,057.00 + 15.0% over \$6,667.00
\$8,958.00	26.8	\$2,402.00 + 9.4% of anything over \$8,958.00

(b) Where the combined income of the custodial parent and the noncustodial parent is less than eight hundred thirty-three dollars (\$833.00), the support obligation of the noncustodial parent shall be twenty-five percent (25%) of net income, but in no case shall the support obligation be less

than fifty dollars (\$50.00) per month for each family unit in which there are children to whom the noncustodial parent owes a duty of support.

(c) When each parent keeps the children overnight for more than forty percent (40%) of the year and both parents contribute substantially to the expenses of the children in addition to the payment of child support, a joint presumptive support obligation shall be determined by use of the tables. After the joint presumptive child support obligation is derived from column three of the tables, that amount shall be divided between the parents in proportion to the net income of each. The proportionate share of the total obligation of each parent shall then be multiplied by the percentage of time the children spend with the other parent to determine the theoretical support obligation owed to the other parent. The parent owing the greater amount of child support shall pay the difference between the two (2) amounts as the net child support obligation.

(d) When each parent has physical custody of at least one (1) of the children, a joint presumptive support obligation for all of the children shall be determined by use of the tables. The joint presumptive support amount shall be divided by the number of children to determine the presumptive support obligation for each child, which amount shall then be allocated to each parent based upon the number of those children in the physical custody of that parent. That sum shall be multiplied by the percentage that the other parent's net income bears to the total net income of both parents. The obligations so determined shall then be offset, with the parent owing the larger amount paying the difference between the two (2) amounts to the other parent as a net child support obligation.

(e) If a proportion of a support obligor's social security or veteran's benefit is paid directly to the custodian of the obligor's dependents who are the subject of the child support order, the total amount of the social security or veteran's benefit, including the amounts paid to the obligor and custodian under the child support order, shall be counted as gross income to the obligor. However, in determining the support amount, the amount of the social security or veteran's benefit sent directly to the custodian shall be subtracted from the obligor's share of presumptive support. If the subtraction of the social security or veteran's benefit sent directly to the custodian results in a negative dollar amount, the support amount shall be set at zero. The child support obligation shall be offset by the amount of the social security or veteran's benefit sent directly to the custodian, beginning from the time the custodian began receiving the social security or veteran's benefit. The obligor or the department of family services may apply to the court to receive a credit against arrears for any social security or veteran's benefits that are paid retroactively to the custodian. For purposes of this subsection, "custodian" means the custodian of dependent children under a child support order and the physical custodian of dependent children who are the subject of a child support order.

20-2-305. Abatements.

(a) Unless otherwise ordered by the court, child support shall abate by one-half (1/2) of the daily support obligation for each day the noncustodial parent has physical custody of the child for whom support is due, provided that the noncustodial parent has custody of the child for fifteen (15) or more consecutive days. For the purposes of computing abatement and determining whether the noncustodial parent has met the consecutive day requirement of this subsection, overnight and weekend visits with the custodial parent during the period for which abatement is claimed shall be disregarded.

(b) The noncustodial parent shall file any claim for child support abatement with the clerk of the court within thirty (30) days after the period for which abatement is claimed and shall pay to the clerk the sum of ten dollars (\$10.00). The clerk shall mail a copy of the claim to the custodial parent at the address provided to the clerk by the custodial parent.

(c) The custodial parent shall have the right to object to any claim for abatement made by the noncustodial parent. The custodial parent's right to object shall be limited solely to issues related to the legitimacy or accuracy of the abatement claim. The custodial parent shall file any objection to the abatement claim with the clerk of court within thirty (30) days of the date the clerk mailed the notice of claim for abatement and shall pay to the clerk a fee of ten dollars (\$10.00). The custodial parent may approve the abatement claim prior to the expiration of the thirty (30) day time period for objections by filing notice of immediate approval with the clerk of the court, and no filing fee shall be assessed for filing of such notice of immediate approval. The clerk shall mail a copy of the objection or notice of immediate approval to the noncustodial parent at the address provided to the clerk by that parent.

(d) Claims, objections or responses not timely filed or not accompanied by the requisite fee are barred without further order of the court.

(e) The clerk shall notify the court of claims and objections not barred and of any arrearage owed by the noncustodial parent, and the court shall promptly resolve the differences, with or without a hearing, and prepare and file an appropriate order.

(f) Abatement amounts shall be applied to any current child support due and then to any arrearage balance owed to the custodial parent for past-due child support. If there is no arrearage and no objection was filed within the thirty (30) day period for objections, or if there is no arrearage and a notice of immediate approval was filed prior to the expiration of the thirty (30) day period for objections, the abatement amount shall be reduced from the next scheduled payment of child support.

(g) In all cases in which the custodial parent has filed an objection to a claim for abatement within the thirty (30) day time period, the noncustodial parent shall have the right to respond to the objection. The noncustodial parent's right to respond to the objection shall be limited solely to issues raised in the objection. The noncustodial parent shall file any response with the clerk of the court within fifteen (15) days of the date the clerk mailed the objection to the noncustodial parent, and no filing fee shall be assessed. The clerk shall mail a copy of the response to the custodial parent at the address provided to the clerk by the custodial parent. The court shall fully consider the abatement claim of the noncustodial parent regardless of whether a response to the objection was filed.

(h) For purposes of this section, "weekend" means any two (2) consecutive days, except if a legal holiday precedes or follows the days constituting a weekend under this section the weekend shall consist of three (3) days.

20-2-306. Revision of presumptive child support.

On or before December 1, 1996, and at least once every four (4) years thereafter, the department of family services shall review the presumptive child support established under this article to ensure that application results in the determination of appropriate child support award amounts and shall submit a report to the joint labor, health and social services interim committee and shall recommend any proposed changes.

20-2-307. Presumptive child support to be followed; deviations by court.

(a) The presumptive child support established by W.S. 20-2-304 shall be rebuttably presumed to be the correct amount of child support to be awarded in any proceeding to establish or modify temporary or permanent child support amounts. Every order or decree providing for the support of a child shall set forth the presumptive child support amount and shall state whether the order or decree departs from that amount.

(b) A court may deviate from the presumptive child support established by W.S. 20-2-304 upon a specific finding that the application of the presumptive child support would be unjust or inappropriate in that particular case. In any case where the court has deviated from the presumptive child support, the reasons therefor shall be specifically set forth fully in the order or decree. In determining whether to deviate from the presumptive child support established by W.S. 20-2-304, the court shall consider the following factors:

(i) The age of the child;

(ii) The cost of necessary child day care;

(iii) Any special health care and educational needs of the child;

(iv) The responsibility of either parent for the support of other children, whether court ordered or otherwise;

(v) The value of services contributed by either parent;

(vi) Any expenses reasonably related to the mother's pregnancy and confinement for that child, if the parents were never married or if the parents were divorced prior to the birth of the child;

(vii) The cost of transportation of the child to and from visitation;

(viii) The ability of either or both parents to furnish health, dental and vision insurance through employment benefits;

(ix) The amount of time the child spends with each parent;

(x) Any other necessary expenses for the benefit of the child;

(xi) Whether either parent is voluntarily unemployed or underemployed. In such case the child support shall be computed based upon the potential earning capacity (imputed income) of the unemployed or underemployed parent. In making that determination the court shall consider:

(A) Prior employment experience and history;

(B) Educational level and whether additional education would make the parent more self-sufficient or significantly increase the parent's income;

(C) The presence of children of the marriage in the parent's home and its impact on the earnings of that parent;

(D) Availability of employment for which the parent is qualified;

(E) Prevailing wage rates in the local area;

(F) Special skills or training; and

(G) Whether the parent is realistically able to earn imputed income.

(xii) Whether or not either parent has violated any provision of the divorce decree, including visitation provisions, if deemed relevant by the court; and

(xiii) Other factors deemed relevant by the court.

(c) If the parties fail to agree that the presumptive child support amount under W.S. 20-2-304 is appropriate, the court may order the party seeking to deviate from the presumptive child support amount to pay reasonable attorney fees and court costs to the other party unless, after hearing the evidence and considering the factors contained in subsection (b) of this section, the court deviates from the presumptive support amount.

(d) Agreements regarding child support may be submitted to the court. All such agreements shall be accompanied by a financial affidavit as required by W.S. 20-2-308. The court shall use the presumed child support amounts to review the adequacy of child support agreements negotiated by the parties. If the agreed amount departs from the presumed child support, the parties shall furnish statements of explanation which shall be included with the forms and shall be filed with the court. The court shall review the agreement and inform the parties whether or not additional or corrected information is needed, or that the agreement is approved or disapproved. No agreement which is less than the presumed child support amount shall be approved if means tested sources of income such as aid under the personal opportunities with employment responsibilities (POWER) program, health care benefits under Title XIX of the Social Security Act, food stamps, supplemental security income (SSI) or other similar benefits are being paid on behalf of any of the children.

20-2-308. Financial affidavits required; financial reporting.

(a) No order establishing or modifying a child support obligation shall be entered unless financial affidavits on a form approved by the Wyoming supreme court which fully discloses the financial status of the parties have been filed, or the court has held a hearing and testimony has been received.

(b) Financial affidavits of the parties shall be supported with documentation of both current and past earnings. Suitable documentation of current earnings includes but is not limited to pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period.

(c) The court may require, or the parents may agree, to exchange financial and other appropriate information once a year or less often, by regular mail, for the purpose of analyzing the propriety of modification of court ordered child support.

(d) All financial affidavits and records required by law to be attached to the affidavit shall constitute a confidential file and are subject to inspection by persons other than the parties, their attorneys or the department of family services to the extent necessary to enforce the Child Support Enforcement Act and the Uniform Interstate Family Support Act only by court order.

20-2-309. Contents of orders; change of address or employment; income withholding entered; payment.

(a) All orders shall include the:

(i) Names, addresses, dates of birth and places of birth of the parties and all children to whom the order relates;

(ii) Names and addresses of each party's employer; and

(iii) Repealed By Laws 2004, Chapter 72, § 2.

(iv) Right of either party or, when appropriate, the department of family services to petition to enforce an order pursuant to W.S. 20-2-201 through 20-2-204, 20-2-310 and 20-2-311(d).

(b) All child support orders shall be accompanied by a confidential statement that contains the social security numbers of each party and each child. The confidential statement may be inspected by:

(i) The parties and their attorneys;

(ii) The department of family services to the extent necessary to enforce the Child Support Enforcement Act and the Uniform Interstate Family Support Act; and

(iii) Other persons or entities, if permitted by court order.

(c) The court shall order each party to notify the clerk of court in writing within fifteen (15) days of any change in address or employment.

(d) In any subsequent enforcement action brought under this chapter in which the parties were previously ordered to provide the clerk of the court with their current residential, mailing and employer's address, the court, upon sufficient showing to the satisfaction of the court that a diligent effort has been made to ascertain the location of a party, shall deem state due process requirements for notice and service of process to be met upon delivery of written notice to the most recent residential or employer address of that party filed with the clerk of the district court and the state case registry pursuant to the requirements of this section provided:

(i) An affidavit attesting to the diligent effort to locate the party is filed with the court at the time of filing the subsequent enforcement action; and

(ii) Delivery of the written notice to the most recent residential or employer address of the party is made by personal service or by certified mail.

(e) Upon entry of any order for the support of a child under this section the court shall also enter an income withholding order as provided by W.S. 20-6-204.

(f) All child support payments shall be paid to the clerk of the district court.

(g) For purposes of this section, "party" does not include the department of family services.

20-2-310. Enforcement of child support.

(a) In any proceeding to enforce the decree concerning the maintenance of children, any required notice or pleading shall be served as provided by the Wyoming Rules of Civil Procedure.

(b) A court may, upon appropriate motion, require a parent to appear before the court and show just cause why the parent should not be held in contempt and, upon a showing that the parent has willfully violated a child support order, make such order or orders as the court deems necessary and appropriate.

(c) In any case in which child support has been ordered to be paid to the clerk of the court, any periodic payment or installment under the provisions of an order concerning maintenance is, on the date it is due, a judgment by operation of law.

(d) If an able-bodied obligor is unemployed and otherwise unable to fulfill his court-ordered child support obligation, the court may order the obligor to participate in the personal opportunities with employment responsibilities (POWER) work program administered by the department of workforce services, excluding the benefit portion of that program, without regard to the program eligibility requirements under title 42 or the department rules and regulations promulgated thereunder.

(e) The court in order to enforce and require future compliance with an order, may find that the parent is in contempt of court, award attorney fees, costs and any other relief as the court may deem necessary under the circumstances.

20-2-311. Adjustment of child support orders.

(a) Any party, or the department of family services in the case of child support orders being enforced by the department, may petition for a review and adjustment of any child support order that was entered more than six (6) months prior to the petition or which has not been adjusted within six (6) months from the date of filing of the petition for review and adjustment. The petition shall allege that, in applying the presumptive child support established by this article, the support amount will change by twenty percent (20%) or more per month from the amount of the existing order. The court shall require the parents to complete a verified financial statement on forms approved by the Wyoming supreme court, and shall apply the presumptive child support set out in this article in conducting the review and adjustment. If, upon applying the presumptive child support to the circumstances of the parents or child at the time of the review, the court finds that the support amount would change by twenty percent (20%) or more per month from the amount

of the existing order, the court shall consider there to be a change of circumstances sufficient to justify the modification of the support order. The provisions of this section do not preclude a party or assignee from bringing an action for modification of a support order, based upon a substantial change of circumstances, at any time. Every three (3) years, upon the request of either parent or, if there is a current assignment of support rights in effect, upon the request of the department, the court, with respect to a support order being enforced under this article and taking into account the best interests of the child involved, shall review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to this article. Any adjustment under the three (3) year cycle shall be made without a requirement for a showing of a change in circumstances. The commencement of aid under the personal opportunities with employment responsibilities (POWER) program, medical benefits under Title XIX of the Social Security Act, food stamps and supplemental security income (SSI) shall be considered a substantial change of circumstances requiring modification of child support.

(b) Notwithstanding any other provision of law, if the parties fail to agree that the presumptive child support amount under W.S. 20-2-304 is appropriate, the court may order the party seeking to deviate from the presumptive child support amount to pay a reasonable attorney fee and court costs to the other party unless, after hearing the evidence and considering the factors contained in W.S. 20-2-307(b), the court deviates from the presumptive support amount.

(c) In addition to the petition authorized under subsection (a) of this section, the court on its own motion, or the department without petitioning the court, may increase monthly child support payments to include amounts for arrearages or may decrease the monthly child support payment in cases of emergencies or if the arrearages are paid. Any action by the department to increase monthly child support payments under this subsection shall allow the obligor a reasonable opportunity to contest the action in accordance with the Wyoming Administrative Procedure Act and rules and regulations adopted by the department.

(d) An order for child support is not subject to retroactive modification except:

(i) Upon agreement of the parties; or

(ii) The order may be modified with respect to any period during which a petition for modification is pending, but only from the date notice of that petition was served upon the obligee as provided by the Wyoming Rules of Civil Procedure, if the obligor or the department is the petitioner, or to the obligor, if the obligee or the department is the petitioner.

20-2-312. Redirection of child support.

Upon affidavit by the current custodian or the department filed with the clerk of the district court, or by operation of law when public funds have been expended on behalf of a minor child, that the care and control of the child resides in a party other than the obligee under a child support order, the child support shall, by operation of law, be redirected to the person or agency who has the care and control of the child and shall be subject to assignment by the person having the care and control of the child pursuant to W.S. 20-6-106. The department, upon proof by affidavit filed with the clerk of district court or upon verified information it has received pursuant to W.S. 20-6-106 that the child support is subject to an assignment, may redirect the child support to the person or agency in whose favor the assignment is made.

20-2-313. Cessation of child support.

(a) An on-going child support obligation terminates when the:

(i) Parents marry or remarry each other;

(ii) Child dies;

(iii) Child is legally emancipated; or

(iv) Child attains the age of majority.

(b) After the remarriage of the parents to each other, the court may eliminate all child support arrearage existing between the parents except those assigned to the state of Wyoming.

20-2-314. Court may appoint trustees to manage amount set aside for children.

Upon application by any party, the court may order any amount set apart for the children to be paid to a trustee or trustees appointed by the court, upon trust to invest the same and to apply the income thereof to the support of the children in such manner as the court directs. This section does not apply to periodic payments designated as child support by a court order.

20-2-315. Court may require security for child support payments.

(a) Upon the issuance of any order or entering of a decree under this chapter which provides for child support payments, or any time thereafter following notice and opportunity for hearing, the court may, for good cause shown, require the obligor to provide security of nonexempt property that the court deems satisfactory to secure payment of child support.

(b) The court, upon petition and following notice and hearing, shall no longer require the order for security if the court determines:

(i) Good cause no longer exists to require security to assure payment upon the obligation to pay child support; and

(ii) There is no overdue support outstanding.

(c) Once the child support obligation has terminated and arrearages satisfied, the security shall be released.

ARTICLE 4 MEDICAL SUPPORT FOR CHILDREN

20-2-401. Medical support to be included as part of child support order.

(a) In any action to establish or modify a child support obligation, the court shall order either or both of the parents to provide medical support, which may include dental, optical or other health care needs for their dependent children. The court shall:

(i) Require in the support order:

(A) That one (1) or both parents shall provide insurance coverage for the children if insurance can be obtained through an employer or other group carrier, or if it is otherwise reasonably available; and

(B) That one (1) or both parents be liable to pay any medical expenses not covered by insurance and any deductible amount on the required insurance coverage; or

(ii) Specify in the court order the proportion for which each parent will be liable for any medical expenses, which may include dental, optical or other health care expenses incurred by any person or agency on behalf of a child if the expenses are not covered by insurance.

(b) When the insurance coverage is ordered pursuant to subsection (a) of this section, the court shall order the obligated parent to submit to the court and to the other parent, or to the other parent's representative, written proof that the insurance has been obtained or that application for insurability has been made within sixty (60) days after the entry of the order requiring insurance coverage. Proof of insurance coverage shall contain, at a minimum:

(i) The name of the insurer;

(ii) The policy number;

(iii) The address to which all claims should be mailed;

(iv) A description of any restrictions on usage, such as preapproval for hospital admission, and the manner in which to obtain preapproval;

(v) A description of all deductibles; and

(vi) Two (2) copies of claim forms.

(c) The court shall order the obligated parent to notify the court and the other parent if insurance coverage for any child is denied, revoked, or altered in any way that would affect the other parent including any change relating to information required in subsection (b) of this section.

(d) The court may hold an obligated parent in contempt for refusing to provide the ordered insurance, or for failing or refusing to provide the information required in subsections (b) and (c) of this section.

(e) In addition to enforcement by contempt, as provided for in subsection (d) of this section, the obligated parent is liable to the other parent, any person or agency for:

(i) Part or all of the cost of medical care and medical insurance premiums paid or provided to a child for any period in which the obligated parent failed to provide required coverage;

(ii) Any direct insurance benefits received by the obligated parent and not used for the medical care of the child; and

(iii) Any reasonable attorney fees and costs incurred in collection that the court may determine appropriate.

20-2-402. Employer's obligations.

- (a) Where a parent is required by a court or administrative order to provide health coverage for a child, at the time of the order, which is offered by and available through an employer doing business in this state to the parent, the employer is required to comply with the following:
- (i) To permit the parent who has already met eligibility requirements, to enroll, under the family coverage, any child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;
 - (ii) If the parent is enrolled but fails to make application to obtain coverage for the child, to permit enrollment of the child under family coverage upon application by the child's other parent, the department of health in administering the Wyoming Medical Assistance and Services Act or the department of family services in administering the child support enforcement program;
 - (iii) To transfer the national medical support notice to the appropriate group health plan providing the health care coverage for which the child is eligible within twenty (20) business days after the date of the national medical support notice;
 - (iv) To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer;
 - (v) Not to disenroll, or eliminate coverage of, the child unless the employee is no longer insured by that employer's plan or the employer is provided satisfactory written evidence that:
 - (A) The court or administrative order is no longer in effect;
 - (B) The child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of disenrollment; or
 - (C) The employer has eliminated family health coverage for all of its employees;
 - (D) The employee is no longer working for the employer.
 - (vi) To notify the department within thirty (30) business days whenever the obligor's employment is terminated. The notice shall include the following information:
 - (A) When the obligor left the employment;
 - (B) The last known address of the obligor;
 - (C) The last known telephone number for the obligor; and
 - (D) The name, address and telephone number of the obligor's new employer, if known.
- (b) No employer shall use the existence of the medical child support order authorized by this act:
- (i) As grounds for discharge or discipline;
 - (ii) To otherwise penalize an obligor; or
 - (iii) As grounds to refuse to employ a person.
- (c) Any employer who violates subsection (a) or (b) of this section is subject to a civil penalty of not more than one hundred dollars (\$100.00). Any penalty collected under this section shall be distributed to the county public school fund in the county where the penalty was collected.

20-2-403. Department of family services; duties of department and custodial parent; rules and regulations.

- (a) In IV-D cases where the noncustodial parent is required to provide health care coverage pursuant to a child support order, and for whom the employer is known, the department shall enforce the provision of court ordered health care coverage for dependent children, where appropriate, through the use of the national medical support notice as provided by federal or state law, unless alternate coverage is allowed by any order of the court or tribunal, including:
- (i) Cash contributions for health insurance coverage premiums through the custodial parent's employment;
 - (ii) Private coverage, unrelated to the noncustodial parent's employment.
- (b) The department shall transfer the national medical support notice to the employer within two (2) business days after an employee who is an obligor in a IV-D case is entered in the state directory of new hires.
- (c) The department shall promptly notify the employer when there is no longer a current order for medical support in effect for which the department is responsible.
- (d) The custodial parent, in consultation with the department, shall promptly select from available insurance plan options when the insurance plan administrator reports that there is more than one (1) option available under the plan, and shall take into consideration the income withholding of, and costs to, the obligor.
- (e) The department shall, through rules and regulations, develop procedures to determine when it is appropriate to utilize the national medical support notice.

20-2-404. Rights of obligor.

(a) The obligor shall have twenty (20) days from the date of receipt of the national medical support notice within which to request a hearing. If the obligor does not request a hearing within twenty (20) days, the opportunity for a hearing may be deemed waived.

(b) The request for hearing shall be made in writing to the court or tribunal having appropriate jurisdiction, with notice provided to the department, and shall state the basis upon which the hearing is requested.

(c) The obligor may contest the withholding based on mistake of fact, according to the provisions of subsection (a) of this section. Notwithstanding any contest by the obligor under this subsection, the employer shall initiate withholding until the employer receives notice from the department that withholding is no longer required. Any funds that are found to be inappropriately withheld shall be refunded to the obligor, if no arrearages exist, in accordance with rules and regulations of the department.

20-2-405. Priorities of payment.

(a) In IV-D cases in which an obligor is subject to income withholding for court ordered child support payments, health care coverage and any arrearages, and the amount of withholding allowed by law does not satisfy all withholding orders against the obligor, payment of current child support obligations shall be given priority in accordance with W.S. 20-6-215.

(b) After the requirements of W.S. 20-6-215 are met, health insurance premiums shall be prioritized by the court or tribunal on a case-by-case basis.

20-2-406. Definitions.

(a) As used in this act:

(i) "Department" means the department of family services;

(ii) "Employer" means any person who owes income to an obligor, including but not limited to, the United States government, a state government, any unit of local government and any school district;

(iii) "IV-D agency" means the department of family services or any other state's IV-D agency as defined by that state;

(iv) "IV-D case" means a case with respect to a child in which support enforcement services are provided in accordance with Title IV-D of the federal Social Security Act by the child support enforcement unit of the department to a custodian of a child who is a recipient of services under title 42, chapters 1, 2 or 4, of the Wyoming statutes, or is a recipient of Title IV-E foster care. The term also includes any case in which a parent or custodian of a child applies to the child support enforcement unit of the department for support enforcement services and pays a fee for such services;

(v) "Medical child support order" means an order, judgment or decree, including the approval of a settlement agreement, issued by a court or tribunal, requiring a parent to provide health care coverage for a child and which may require a payor to enroll the child in a health care benefit plan;

(vi) "Mistake of fact" means an error in the amount of current support or arrearages, in the identity of the obligor or that the order of support does not exist or has been vacated;

(vii) "National medical support notice" means the federally approved national medical support notice used to enforce the provision of health care coverage in IV-D cases for children of noncustodial parents who are required to provide health care coverage through an employment-related group health plan in accordance with a child support order;

(viii) "Obligor" means a person who owes a duty of support for a child;

(ix) "Payor" means any employer or other person who pays income to an obligor and who has or provides health care coverage to employees;

(x) "Title IV-D" means Title IV-D of the federal Social Security Act which established the federal child support enforcement program;

(xi) "This act" means W.S. 20-2-401 through 20-2-406.

CHAPTER 6 CHILD SUPPORT ENFORCEMENT

ARTICLE 1 IN GENERAL

20-6-101. Short title.

This act may be cited as the "Child Support Enforcement Act".

20-6-102. Definitions.

(a) As used in this act:

- (i) "Noncustodial parent" means the parent who was not awarded primary physical custody of the child by the court;
- (ii) "Department" means the department of family services;
- (iii) "Division" means the designated body to administer Title IV-D child support services within the department of family services;
- (iv) "Obligee" means a person to whom the duty of support is owed;
- (v) "Obligor" means any person owing a duty of support;
- (vi) "Title IV-D" means Title IV-D of the federal Social Security Act as amended [42 U.S.C. §§ 651 et seq.];
- (vii) "This act" means W.S. 20-6-101 through 20-6-112;
- (viii) "Support order" means any order entered by a court or a tribal court, which provides for payment for the support of a child and may include medical support, spousal support, arrearages related costs and fees, interest and penalties, income withholding, and other relief;
- (ix) "IV-D agency" means the department of family services;
- (x) "Clerk" means, for the purpose of receipts, distribution and disbursement of child support, the clerk of district court in this state where the obligor is ordered to make payments, or where mandated by law, the state disbursement unit;
- (xi) "Licensing agency" means the state or any of its political subdivisions, any board, commission or other entity that issues licenses, certificates or permits necessary for an obligor to operate a motor vehicle, hunt, fish or practice a profession or occupation;
- (xii) "Program" means child support services provided in cooperation with the federal government pursuant to Title IV-D of the Social Security Act, as amended.

20-6-103. Child support enforcement program; administration by child support enforcement section.

- (a) The department shall establish a program of child support enforcement services in cooperation with the federal government pursuant to Title IV-D and other applicable federal regulations, to aid in administering the requirements of the program.
- (b) The department shall designate a division within the department to administer the program in accordance with this act.
- (c) The department shall include in its annual report to the legislature information concerning the operation of the program during the preceding year. The report shall include:
 - (i) The number and type of successful locations completed pursuant to W.S. 20-6-108(a);
 - (ii) The total amount of support collected on behalf of obligees who are recipients of public assistance;
 - (iii) The total number of child support collection cases handled by the division;
 - (iv) An itemization of the costs of operating the program under this act; and
 - (v) A brief description of the services provided by any contracts.

20-6-104. Child support enforcement services generally.

- (a) The services in intrastate and interstate situations provided under the child support enforcement program subject to or by appropriate orders of the court shall include:
 - (i) The establishment, enforcement and modification of an obligor's obligation to support dependent children;
 - (ii) The establishment, enforcement and modification of an obligor's obligation to provide medical support in all cases and medical insurance coverage for dependent children when available at a reasonable cost;
 - (iii) The location of an obligor or putative parent, obligee or child for purposes of establishing, enforcing or modifying the child support and medical support obligations and enforcing the Parental Kidnapping Prevention Act;
 - (iv) The monitoring and processing of an obligor's child support payments;

- (v) Providing applications, information and intake services to all eligible persons pursuant to law or upon request;
- (vi) The location of persons, upon request of the noncustodial parent, in cases of denial or interference with court ordered visitation or in cases in which the custodial parent has removed the child from the state and failed to give notice of change of address in violation of a court order;
- (vii) When an obligor is required to provide medical insurance coverage through the employer's health plan pursuant to a court order, the notification to an employer unless the obligor contests the notification and establishes good cause why the notice should not be provided;
- (viii) The establishment of paternity for out of wedlock children pursuant to W.S. 14-2-401 et seq.

20-6-105. Eligibility for services; fees for services.

- (a) Child support enforcement services shall be provided to:
 - (i) Those recipients of aid under the personal opportunities with employment responsibilities (POWER) program who, as a condition of eligibility under federal law, are required to assign their rights to support to, and cooperate with, the department in the establishment of parentage and the establishment, enforcement and modification of support obligations; and
 - (ii) Any eligible obligee or obligor without regard to income or the receipt of public assistance benefits. Eligibility shall be subject to reasonable standards established by the department. These standards shall take into account Title IV-D and other applicable federal regulations and the earnings, income and other resources already available to support the person.
- (b) The department may charge the obligee or obligor, a reasonable application fee under paragraph (a)(ii) of this section and W.S. 20-6-108(a) and may recover the fee and all necessary and reasonable expenses of providing services from the obligor or obligee. The department may waive or defer any fee upon a showing of:
 - (ii) Necessity.

20-6-106. Powers and duties of department regarding collection of support.

- (a) By signing an application for, or being a recipient of, aid under the personal opportunities with employment responsibilities (POWER) program, a support obligee assigns to the department, by operation of law, all rights that person and all other members of the household have to child and spousal support, whether accrued, present or future, and their right to medical support.
- (b) Repealed By Laws 2000, Ch. 53, § 2.
- (c) The department has the power of attorney to act in the name of any recipient of public assistance in endorsing and cashing all drafts, checks, money orders or other negotiable instruments received by the department representing support payments for children on whose behalf public assistance has been previously paid.
- (d) For purposes of prosecuting any civil action under this act or other applicable state statutes relating to the enforcement of child support obligations, the department is the assignee of support rights to the extent of any public assistance provided to an obligee. No act of the obligee shall prejudice the rights of the department or the dependent child in any action or proceeding related to enforcement of child support services hereunder.
- (e) No agreement between any obligee and any obligor purporting to relieve the obligor of any duty of support or to settle past, present or future support or obligations either as settlement or prepayment will reduce or terminate any rights of the department to recover from the obligor for support provided by the department unless the department has consented to the agreement in writing or unless it has been approved by the court with notice to the department.
- (f) The department, in its own name, or on behalf of an obligee, obligor or a child may petition a court for modification of any court order establishing a support obligation.
- (g) If a court orders support to be paid by an obligor, the department shall be subrogated to the debt created by the order. This subrogation interest shall apply to all orders of support including child support orders, medical support orders, temporary spouse support orders, family maintenance and alimony orders. The subrogation shall extend to the amounts paid by the department in public assistance to or for the benefit of a dependent child and the amount of medical support provided by or through another division of the department of family services or the department of health.
- (h) The department may enforce, or, subject to the approval of the court, may compromise or settle any claim or judgment for a support obligation owed to or assigned to the department as may be in the best interest of the dependent child and the public.

(j) The department may offer each county a cooperative agreement relating to the services to be provided by clerks of district court or child support authorities in child support enforcement cases. The department shall enter into a cooperative agreement with the department of employment to recover sums owed under a support order from unemployment benefits awarded to an obligor.

(k) The department may contract with private vendors for services necessary to carry out its responsibilities under Title IV-D, applicable federal regulations, this act and its rules and regulations as they relate to child support enforcement.

(m) The department may:

(i) Repealed By Laws 2000, Ch. 53, § 2.

(ii) Repealed By Laws 2000, Ch. 53, § 2.

(iii) Seek collection of child, medical and spousal support arrears, through the federal offset program under Title IV-D and all applicable federal regulations;

(iv) Repealed By Laws 1997, ch. 193, § 3.

(v) Request a consumer report from a consumer reporting agency pursuant to section 604 of the Fair Credit Reporting Act, 15 U.S.C. 1681b, provided the individual named in consumer report is associated with a IV-D support case, the report received by the department is kept confidential except to the extent needed to accomplish the purposes of this paragraph and the report is needed to:

(A) Locate the individual's whereabouts;

(B) Establish the individual's capacity to pay child support; or

(C) Establish, enforce or modify the appropriate level of child support payments.

(vi) In appropriate circumstances, petition the court to order the child, mother or alleged father to submit to genetic tests to establish paternity, or, in the alternative, to require the testing on its own order;

(vii) Issue subpoenas for information requested under paragraph (v) of this subsection and impose administrative penalties not to exceed twenty-five dollars (\$25.00) for any person failing to respond;

(viii) Require all persons, including government, private for-profit employers and not-for-profit employers and public utility companies to respond to a request by the department for information on social security number, address, employment, compensation and benefits of any individual for any individual who owes or is owed support, or against or with respect to whom a support obligation is sought, and who is employed by the person as an employee or contractor, in accordance with rules adopted by the department. Any person who fails to respond to any request for information may be sanctioned by the department by imposing administrative penalties not to exceed twenty-five dollars (\$25.00). The department shall enter the employer information into the state directory of new hires within five (5) business days after receipt of the employer information. The department may issue administrative subpoenas for financial or other information needed to establish, modify or enforce a support order and impose administrative penalties not to exceed twenty-five dollars (\$25.00) for any person failing to respond. The department may administratively subpoena the customer records of public utility companies for the names and addresses of individuals who owe or are owed support, or against or with respect to whom a support obligation is sought. The department shall notify the supervisor of any employee of a governmental agency if the employee fails to respond to a request under this paragraph. Any person who, acting in good faith, provides information to the department under this paragraph shall not be liable for civil damages as a result of the information provided. The department shall deposit any penalties collected under this paragraph in the public school fund of the respective counties;

(ix) Repealed By Laws 2000, Ch. 53, § 2.

(x) Issue an income withholding order, if an income withholding order has not previously been issued. The department shall file the order with the clerk of court who shall mail copies of the order as provided by W.S. 20-6-204(c);

(xi) Seize assets when an arrearage exists by:

(A) Intercepting or seizing periodic or lump sum payments from a state or local government agency, including unemployment compensation, workers' compensation and other benefits or judgments, settlements and lottery winnings;

(B) Attaching and, pursuant to a court order, seizing assets owned solely by the obligor that are held in financial institutions or national chartered credit unions;

(C) Attaching public and private retirement funds pursuant to state law; and

(D) Imposing liens and, in appropriate cases, petitioning a court to force the sale of property and distribution of the proceeds.

(xii) Repealed By Laws 2000, Ch. 53, § 2.

(xiii) In any case where there exists child support arrearages and for which payments are allowed or required, petition the district court for an increase or decrease in the required payments due on the arrearages;

(xiv) Petition a court to void fraudulent transfers, or obtain a settlement in the best interests of a child support creditor when a prima facie case is established that the obligor has transferred income or property to avoid payment to the child support creditor;

(xv) Appear in any judicial proceeding on behalf of the state when any obligee or obligor makes application for IV-D services, in order to establish, enforce or modify a child support order, medical support order or a spousal support order, if the spousal support issue is considered in conjunction with the child support or medical support issues, provided the department shall not be required to participate in visitation, custody, property settlement or other issues between the parties. The department shall certify that the obligee, obligor or child has applied for or is receiving Title IV-D services. Initial pleadings filed by the department or its contractors shall state that the action is being taken pursuant to this act or Title IV-D;

(xvi) If an obligee receives child support which has been assigned to the department, recover the child support payments out of current or future child support payments due to the obligee which are unassigned until the assigned sums have been fully paid;

(xvii) Allocate and distribute child, medical and spousal support whether accrued, present or future pursuant to regulations.

(n) The department shall adopt reasonable rules and regulations to carry out the provision of this act, including rules and regulations governing:

(i) The provision of services pursuant to the program;

(ii) The distribution of child support collected by the department;

(iii) Due process safeguards;

(iv) The administration of child support income;

(v) Requirements for adequate record keeping;

(vi) Tracking and monitoring of program statistics and support payments.

(o) If a court, on its own motion or pursuant to a request from the department, orders an able-bodied obligor who is unemployed and otherwise unable to fulfill his court-ordered child support obligation to participate in the personal opportunities with employment responsibilities program administered by the department, the department shall permit the obligor to participate pursuant to the court order without regard to the program eligibility requirements under title 42 or the department rules and regulations promulgated thereunder.

(p) Repealed By Laws 2000, Ch. 53, § 2.

(q) Repealed By Laws 2000, Ch. 53, § 2.

(r) Repealed By Laws 2000, Ch. 53, § 2.

(s) The department shall not enforce any administrative procedures contained in this act until it has implemented rules providing due process safeguards, including requirements for notice, opportunity to contest the action and an opportunity to appeal to the district court. Any obligor may recover costs and reasonable attorney fees from the department or its child support collection contractor for costs incurred in any administrative hearing or subsequent court appeal if:

(i) It is found that the obligor did not owe an arrearage and had paid all required support to the clerk.

(ii) Repealed By Laws 2000, Ch. 53, § 2.

(t) The department of health and the department of family services shall through rules and regulations develop procedures to allow the sharing of birth and paternity records for purposes of establishing paternity and child support obligations.

(u) The department shall, to the extent required by federal law, have access to any information used by the state to locate an individual for purposes relating to motor vehicle laws or law enforcement and enter into agreements with financial institutions, national chartered credit unions, benefit associations, insurance companies, safe deposit companies, money market mutual funds or similar entities authorized to do business in the state as provided in W.S. 13-1-205 to develop and operate an automated data match system to obtain identifying information for each obligor who maintains an account at the institution and who owes past due child support in an amount equal to at least triple the current monthly child support obligation and to allow assets to be encumbered as provided by law.

(w) The department shall report to any consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act information regarding the amount of overdue support owed by an obligor.

(y) The department shall, to the extent an obligor is resident in the state or owns real or personal property in the state, have a lien by operation of law against that real or personal property. After an obligor is in arrears at least triple the current monthly child support obligation, the department shall perfect and enforce a lien authorized by this section in the same manner as liens are perfected for the specific type of real or personal property upon which the lien is claimed. In the event there are competing liens or encumbrances on any property upon which a lien is attached pursuant to this section, the priority of the competing liens or encumbrances shall date from the date of filing or perfection. The state of Wyoming shall accord full faith and credit to a lien arising in another state as a result of child support arrearages when the other state or an agency thereof seeks to enforce such lien, provided the lien was properly filed and recorded under the laws of the state in which the lien was created.

(z) Repealed By Laws 2000, Ch. 53, § 2.

20-6-107. Payment of support money collected to department.

(a) Except as provided in subsection (b) of this section the obligor shall make all support payments to the department upon receipt of written notice that the children for whom the support obligation exists are receiving public assistance.

(b) If an obligor is ordered by the court to make payments to the clerk of court, the clerk shall forward all payments received from the obligor to the department.

20-6-108. State parent locator service.

(a) The department shall act as a state parent locator service to assist in:

(i) The location of parents who have abandoned their children or failed to provide for their support;

(ii) The location of persons, upon the request of law enforcement agencies, in cases of parental kidnapping or child custody violations under the Uniform Child Custody Jurisdiction and Enforcement Act; and

(iii) The location of persons, upon request of the noncustodial parent, in cases of denial or interference with court ordered visitation or in cases in which the custodial parent has removed the child from the state and failed to give notice of change of address in violation of a court order.

(b) The department may request from state, county and local agencies all information and assistance necessary to carry out the purposes of this section. All state, county and city agencies, officers and employees shall cooperate in the location of parents who have violated custody or visitation orders or abandoned, deserted or failed to support their children and shall supply the department with all information available relative to the location, income and property of the parents.

(c) Any records provided, created or established under this section are available only for purposes of this act.

(d) The department shall comply with 42 U.S.C. § 653 with respect to the establishment, purpose and implementation of the federal parent locator service.

(e) The state shall establish and maintain in the federal and state parent locator service, an automated case registry, which shall contain abstracts of support orders and other information as defined in 42 U.S.C. § 653.

(f) The state case registry shall contain the names and social security numbers of the children. The state case registry of child support orders shall include abstracts of support orders, names, social security numbers or other uniform identification numbers and state identification numbers of individuals who owe support, in addition to the names and social security numbers of children of such persons.

20-6-109. Cooperation with other states.

(a) When required to qualify for federal funds under Title IV-D, the department shall assist other states in locating parents under the terms and conditions of this act.

20-6-110. Repealed by Laws 1985, ch. 109, § 3; 1986, ch. 18, § 1.

20-6-111. Driver's license suspension; nonpayment of child support; administrative hearings.

(a) When an obligor is in arrears in a court order child support obligation, the department or court may:

(i) Determine whether the obligor has a driver's license, as defined in W.S. 31-7-102(a)(xxv), that is subject to withholding, suspension or restriction; and

(ii) Obtain an administrative or court ordered withholding, suspension or restriction of the license unless the obligor pays the entire arrearage or enters into a payment plan approved by the department.

(b) The court, on motion of the department or on its own motion, may direct the department of transportation to withhold, suspend or restrict the license and the department or the court shall send certified copies of the court order to the obligor, at the obligor's last known address, and to the department of transportation instructing that the department of transportation notify the obligor of the license withholding, suspension or restriction in accordance with the licensing procedures, and that the withholding, suspension or restriction shall remain in effect until the department of transportation is notified by the department or the court that the obligor is in compliance with the court order or has entered into a payment plan approved by the department. The department of transportation shall if requested by the obligor, conduct a record review and advise the court if a probationary or conditional license is appropriate. No hearing or appeal shall be permitted under the Wyoming Administrative Procedure Act for a license withheld, suspended or restricted pursuant to a court order.

(c) If at any time an obligor has complied with the terms of the court order, or has entered into a payment plan approved by the department, the court or the department, whichever has caused notice to be initially provided, shall immediately notify the department of transportation that the withholding, suspension or restriction may be lifted and the license may be reinstated if the obligor is otherwise eligible for reinstatement.

(d) Nothing in this section shall prohibit subsequent orders and notices for subsequent arrearages if the obligor is again subject to the provisions of this section.

(e) The department shall adopt rules and regulations to ensure notice is provided in an immediate and timely manner to the department of transportation that an obligor is in satisfactory compliance with the court order under this section. Upon receipt of the notice, the department of transportation shall immediately reinstate the license unless the license was suspended or revoked for other reasons. The department of transportation shall adopt reasonable rules and regulations to ensure the license is immediately reinstated upon receipt of the notice.

(f) If the department determines that a driver's license suspension may be better achieved through an administrative suspension, the department may notify the department of transportation by electronic data transfer and any obligor by personal service or by certified mail, restricted delivery, that the obligor is in arrears in a child support obligation and that the obligor's driver's license as defined in W.S. 31-7-102(a)(xxv) shall be suspended by the department of transportation ninety (90) days after the date of the notice unless the obligor:

(i) Pays the entire arrearage stated in the notice; or

(ii) Enters into a payment plan approved by the department.

(g) A hearing examiner designated by the office of administrative hearings created by W.S. 9-2-2201 shall sit as the administrative hearing agency for the department to hear all:

(i) Contested cases and hearings involving suspensions of licenses as defined by W.S. 31-7-102(a)(xxv) for nonpayment of child support obligations;

(ii) Appeals from the record review of the department.

(h) Any order arising out of a hearing under subsection (g) of this section may be appealed to the district court. The person whose license or driving privilege is affected may file a petition for a review of the record in the district court in the county where the person resides or in the case of a nonresident in Laramie county or the county where the child support order was issued. The person shall have thirty (30) days from the date of the written order in which to file the petition for review. The district court shall immediately set the matter for determination upon thirty (30) days written notice to the department.

(j) Before the license or driving privilege of any person is to be withheld, suspended or restricted under this article, the department shall advise the licensee in the notice required under subsection (f) of this section:

(i) Of his right to request a hearing;

(ii) If the request for hearing is only to determine whether the records of the department correctly reflect all payments made under a child support order, that the request shall be for a record review conducted by the department. The request for a record review under this paragraph shall be

accompanied by a fee of fifteen dollars (\$15.00). If the record review results in a finding that the licensee is current on his child support obligation, the department shall return the fee required under this paragraph;

(iii) If the request for hearing is for any purpose other than specified under paragraph (j)(ii) of this section, that the request shall be for a hearing before a hearing examiner within the office of administrative hearings. The request for a hearing before the office of administrative hearings under this paragraph shall be sent to the department, accompanied by a fee of twenty-five dollars (\$25.00).

(k) The licensee has twenty (20) days from the date of receipt of the notice of intent to withhold, suspend or restrict the license within which to request a hearing or the opportunity for a hearing is waived. If the request for a hearing is timely filed and the request is for a contested case, the department shall forward the request and certified record to the hearing examiner who shall schedule a hearing within forty-five (45) days after receipt of the certified record at a time and place specified by the hearing examiner. The hearing examiner shall provide the licensee notice of the hearing at least ten (10) days in advance of the hearing. If the hearing examiner fails to schedule the hearing within forty-five (45) days of the request, other than at the request of the licensee, the licensee shall be given credit against any action upheld at the hearing for the time between the expiration of the forty-five (45) day period and the date the hearing was first scheduled. The hearing examiner may administer oaths, subpoena and compel the attendance of witnesses or the production of relevant books, papers and other evidence reasonably necessary to resolve the matters under consideration in accordance with W.S. 16-3-101 through 16-3-115. The hearing examiner shall issue subpoenas upon his own motion or upon the request of any party to the proceedings in compliance with the Wyoming Rules of Civil Procedure. After a review of the record, the hearing examiner shall issue an order affirming, modifying or rescinding the notice to suspend the license of the obligor.

(m) Upon receipt of a timely request, the department shall conduct a review of its records and issue an order affirming, modifying or rescinding its notice to suspend the license of the obligor.

(n) The discretion to modify any order of suspension under this section to allow driving privileges is limited as follows:

(i) A person whose driving privileges have been suspended for nonpayment of child support may be granted limited driving privileges for a period not to exceed one hundred twenty (120) days;

(ii) A person granted limited driving privileges under this subsection shall not be granted an extension of such privileges for twelve (12) months after the limited driving privileges expire unless the person has subsequently made full payment on his child support obligation in arrears, or is in full compliance with a payment plan approved by the department;

(iii) The department shall notify the department of transportation by electronic data transfer that the person may be granted limited driving privileges as provided in this paragraph.

20-6-112. Professional, occupational or recreational license suspension; nonpayment of child support; notice and hearing.

(a) The department may petition a court for an order to withhold, suspend or restrict any professional, occupational or hunting or fishing license, certificate or permit issued to an obligor who is in arrears in a child support obligation. The court may:

(i) Determine whether the obligor has a professional, occupational or recreational license, certificate or permit that is subject to withholding, suspension or restriction; and

(ii) Issue a withholding, suspension or restriction of the license, certificate or permit unless the obligor pays the entire arrearage or enters into a payment plan approved by the department.

(b) Repealed By Laws 2000, Ch. 53, § 2.

(c) The court, on motion of the department or on its own motion, may direct a licensing, certifying or permitting agency to withhold, suspend or restrict any license, certificate or permit and the department or the court shall send certified copies of the court order to the obligor, at the obligor's last known address, and to the appropriate licensing, certifying or permitting agencies identified in the court order instructing that the licensing, certifying or permitting agency notify the obligor of the license, certificate or permit withholding, suspension or restriction in accordance with the licensing, certifying or permitting procedures, and that the withholding, suspension or restriction shall remain in effect until that agency is notified by the department or the court that the obligor is in compliance with the court order or has entered into a payment plan approved by the department. No hearing or appeal shall be permitted under the Wyoming Administrative

Procedure Act for a license, certificate or permit withheld, suspended or restricted pursuant to a court order.

(d) If at any time an obligor has complied with the terms of the court order, or has entered into a payment plan approved by the department, the court or the department, whichever has caused notice to be initially provided, shall immediately notify the licensing, certifying or permitting agency initially notified that the withholding, suspension or restriction may be lifted and the license, certificate or permit may be reinstated if the obligor is otherwise eligible for reinstatement.

(e) Nothing in this section shall prohibit subsequent orders and notices for subsequent arrearages if the obligor is again subject to the provisions of this section.

(f) The department shall adopt rules and regulations to ensure notice is provided in an immediate and timely manner to any licensing, certifying or permitting agency that was sent a copy of the court order that an obligor is in satisfactory compliance with the court order under this section. Upon receipt of the notice, the licensing, certifying or permitting agency shall immediately reinstate the license, certificate or permit unless the license, certificate or permit was suspended or revoked for other reasons. The licensing, certifying or permitting agencies shall adopt reasonable rules and regulations to ensure such licenses, certificates or permits are immediately reinstated upon receipt of the notice.

ARTICLE 2 INCOME WITHHOLDING

20-6-201. Short title.

This act may be cited as the "Income Withholding Act".

20-6-202. Definitions.

(a) As used in this act:

(i) "Arrearage" means past due child support, past due medical support, past due spousal support, attorneys fees, guardian ad litem fees, costs, interest and penalties but does not include property settlements;

(ii) "Child" means any person with respect to whom a support order, other than an order for spousal support, exists;

(iii) "Clerk" means, for the purpose of receipt, distribution and disbursement of child support, the clerk of the district court in this state where the income withholding order is entered, or where mandated by law, the state disbursement unit;

(iv) "Court" means any district court in this state;

(v) "Delinquency" means arrearage;

(vi) "Disposable income" means income as defined under paragraph (a)(ix) of this section less personal income taxes, social security and Medicare deductions, cost of dependent health care coverage for all dependent children and mandatory pension deductions;

(vii) "Department" means the department of family services;

(viii) "Employer" means any person who owes income to an obligor, including but not limited to the United States government, the state of Wyoming, any unit of local government and any school district;

(ix) "Income" means any form of payment or return in money or in kind to an individual, regardless of source. Income includes, but is not limited to wages, earnings, salary, commission, compensation as an independent contractor, temporary total disability, permanent partial disability and permanent total disability worker's compensation payments, unemployment compensation, disability, annuity and retirement benefits and any other payments made by any payor;

(x) "Income withholding order" means a court's or an administrative order requiring a payor to withhold income due an obligor for payment to the obligee in accordance with this act;

(xi) "Notice to payor" means the notice provided by W.S. 20-6-210;

(xii) "Obligee" means any person entitled to receive support under an order of support and includes the agency of this or another jurisdiction to which a person has assigned his right to support;

(xiii) "Obligor" means a person owing a duty of support;

(xiv) "Payor" means any employer or other person owing income to an obligor;

(xv) "Support order" means any order entered by a court or tribunal of this or another state, or of a tribal court, which provides for payment for the support of a child and includes medical support and spousal support, but excludes property settlements;

(xvi) Repealed By Laws 2000, Ch. 2, § 2.

(xvii) "Uniform income withholding order and notice to payor" means the federally approved uniform income withholding order and notice to payor;

(xviii) "State disbursement unit" means the clerks of district court collectively or the single address location established pursuant to W.S. 20-6-210 (d). The state disbursement unit is the entity for receiving, distributing and disbursing child support payments;

(xix) "This act" means W.S. 20-6-201 through 20-6-222.

20-6-203. Notices; method of service.

All notices required by this act shall be served by certified mail return receipt requested to the last known address of the addressee or shall be personally served as provided by the Wyoming Rules of Civil Procedure. If mailed, notice shall be deemed given when deposited in the United States mail, postage prepaid. Proof of mailing shall be sufficient proof of notice. The cost of mailing the notice is the responsibility of the obligee.

20-6-204. Entry of income withholding order.

(a) Upon entry or modification of any support order, the court shall also enter an income withholding order which shall take effect immediately, unless the parties agree otherwise, or unless one (1) of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding. When the parties agree to an alternative arrangement, the arrangement shall be in writing, signed by the parties and reviewed and entered in the record by the court. The court shall include in the record its findings of good cause, including a statement explaining why implementation of immediate income withholding would not be in the best interests of the child and, in cases involving modification of child support, proof of timely payments.

(b) If a support order was entered by a Wyoming court before the effective date of this act and an income withholding order has not previously been entered, the court which entered the support order shall enter the income withholding order on its own motion at the time the support order is subsequently modified or at any other time upon application of the obligee, the obligor or the department. An income withholding order under this subsection shall be entered without a hearing if an arrearage occurs. An income withholding order under this subsection may also be entered by the district court of any other county in this state in which the obligor, obligee or payor resides, provided:

(i) The petitioner files in the office of the clerk of that district court a certified copy of the support order and a sworn statement of the arrearages; and

(ii) No other court in this state has entered an income withholding order based upon the same support order.

(c) At the time an income withholding order is entered, the clerk shall mail a copy of the income withholding order and the support order to the last known address of the obligor and the obligee.

(d) If a support order was entered by a Wyoming court and an income withholding order has not previously been entered, the department may issue an administrative income withholding order, subject to the applicable requirements of W.S. 20-6-101 through 20-6-112.

20-6-205. When income withholding order becomes effective.

(a) Except as otherwise provided by W.S. 20-6-204(a), an income withholding order which did not become effective immediately upon entry, becomes effective upon the earliest of the following:

(i) Repealed By Laws 2000, Ch. 2, § 2.

(ii) The date the obligor requests withholding commence; or

(iii) The date the obligor becomes delinquent in payment of an amount equal to one (1) month's support obligation under the support order.

20-6-206. Contents of income withholding order.

(a) The income withholding order shall:

(i) Direct the payor to withhold and remit to the clerk income due from the payor to the obligor, as specified in the notice to payor required by W.S. 20-6-210, for the payment of current support obligations and for the liquidation of arrearages, if any;

- (ii) Order the payor to comply with all the terms of the notice to payor and all subsequent notices from the clerk served upon the payor;
 - (iii) State that the income withholding order is immediately effective or that the order will become effective as provided in W.S. 20-6-205(a)(ii) or (iii); and
 - (iv) State the addresses, if known, and social security numbers of the obligor and the obligee.
- (b) If there is more than one (1) income withholding order in effect, and if the various orders require payment to two (2) or more payees, then the notice to payor shall provide that income withheld shall be disbursed according to the following:
- (i) Each child shall receive an amount in the proportion which the child's current support bears relative to the total of all amounts for current support under court orders; and
 - (ii) Any remaining withheld income shall be distributed to each child in an amount proportional to which the arrearage for that child's support bears relative to the total of all amounts ordered to be paid on arrearage.

20-6-207. Voluntary assignment by obligor.

- (a) An obligor may at any time voluntarily apply to the court to enter an income withholding order pursuant to W.S. 20-6-204(b) or file a verified written application with the clerk requesting that withholding commence pursuant to W.S. 20-6-205(a)(ii).
- (b) An income withholding order which becomes effective at the voluntary request of the obligor shall remain in effect until such time as:
- (i) The obligor petitions the court to suspend withholding of income upon a showing of good cause, including a showing that income withholding has not been terminated previously and subsequently reinitiated and that the parties have agreed to an alternative arrangement as specified in W.S. 20-6-204; or
 - (ii) There is no longer a current order for support and all arrearages as defined in W.S. 20-6-202 have been paid.

20-6-208. Notice to obligor.

- (a) Except where an income withholding order becomes effective immediately, the clerk shall send notice to the obligor no later than fifteen (15) days after the date when:
- (i) The obligor becomes delinquent as specified in subsection (b) of this section; or
 - (ii) An application by the obligee for income withholding has been granted by the court.
- (b) When an obligor becomes delinquent in payment in an amount equal to one (1) month's obligation under the support order, the obligee or the department, to initiate income withholding, shall file with the clerk a verified notice of delinquency, a certified copy of which shall be served upon the obligor together with the form by which the obligor may petition to stay service as provided by W.S. 20-6-209.
- (c) The notice of delinquency shall state:
- (i) The terms of the support order;
 - (ii) A computation of the period and total amount of arrearage as of the date of the notice;
 - (iii) That the amount of income that will be withheld shall be the full amount due for current support and an additional sum toward arrearages, the total of which shall not exceed the amount authorized by W.S. 20-6-210(b)(iii);
 - (iv) The effective date of the income withholding order as provided by W.S. 20-6-205;
 - (v) The income withholding order will be sent to any known current and subsequent payor of the obligor unless the obligor files a petition to stay service in accordance with W.S. 20-6-209;
 - (vi) That the income withholding order applies to any current or subsequent payor or period of employment;
 - (vii) The procedures available for contesting the income withholding including the grounds for contest and the period within which the petition to stay service shall be filed as provided by W.S. 20-6-209; and
 - (viii) That failure to contest the income withholding within the period specified in W.S. 20-6-209(a) will result in the payor being notified to begin withholding.

20-6-209. Procedures to stay income withholding.

- (a) Within twenty (20) days from the date of service of the notice of delinquency the obligor may file with the clerk a petition to stay service of the income withholding order. The petition to stay

shall include the obligor's name, social security number, address, employer and employer's address. The obligor shall mail a copy of the petition to the obligee, or to the obligee's representative if the notice of delinquency was filed by someone other than the obligee, and to the department in all cases being enforced by the department. The obligor shall move for a hearing on the petition within five (5) days of filing the petition or the petition shall be denied. The income withholding order shall not be served on the payor until either a hearing has been deemed denied or until after a hearing has been held on the petition and the court has determined that the income withholding will become effective.

(b) The grounds for the petition to stay service shall be limited to disputes concerning:

(i) The amount of current support or arrearage; or

(ii) The identity of the alleged obligor named in the income withholding order.

(c) If a petition to stay service states the grounds required by subsection (b) of this section, and has been filed as provided by subsection (a) of this section, and the obligor has moved for a hearing, the court shall set the matter for hearing and notify the obligor, the obligee or the obligee's representative if the notice of delinquency was filed by someone other than the obligee of the time and place of the hearing. In all cases being enforced by the department, the department shall be given notice. The court shall hear and decide the dispute and notify the obligor of its determination within forty-five (45) days from the date the notice of delinquency was served on all parties entitled to notice.

20-6-210. Notice to payor.

(a) The notice to payor shall be prepared and filed with the clerk before an income withholding order is mailed to the payor. The notice to payor shall be prepared by:

(i) The court if the income withholding order became effective immediately upon entry;

(ii) The obligor if the income withholding order becomes effective under W.S. 20-6-205(a)(ii); or

(iii) The obligee in all other cases.

(b) The notice to payor shall state:

(i) An ascertainable amount to be withheld from the obligor's income to be remitted to the clerk for current support and for arrearages;

(ii) That the payor may withhold the fee provided by W.S. 20-6-212(c);

(iii) That the amount actually withheld for support combined with the fee authorized by W.S. 20-6-212(c):

(A) Shall be the total amount of current child support ordered to be paid by this obligor and all arrearages owed by this obligor; and

(B) Shall not exceed the maximum amount authorized by 15 U.S.C. § 1673.

(iv) The payor's rights and duties under W.S. 20-6-212;

(v) That the withholding under this act has priority over any other legal process under state law against the same income;

(vi) That the income withholding order is binding upon the payor until further notice from the clerk;

(vii) That the payor is subject to the sanctions of W.S. 20-6-218.

(c) Notwithstanding any other provision of law, the uniform income withholding order and notice to payor is deemed to meet the requirements of this section.

(d) Withholding payments may be forwarded to a single address provided by the Wyoming department of family services, in accordance with the federal Social Security Act.

20-6-211. Service of income withholding order; amended notice to payor; notice to labor organizations; penalty.

(a) The clerk shall prepare and mail to any known current or subsequent payor and the obligor certified copies of the income withholding order and the notice to payor, upon or after the occurrence of one (1) of the following:

(i) No later than fifteen (15) days after the entry of the income withholding order if the court orders it to be effective immediately;

(ii) If the obligor has not filed a petition to stay income withholding under W.S. 20-6-209(b), then no later than fifteen (15) days after the expiration of the time allowed for filing the petition;

(iii) Entry of the court's order determining that the income withholding order will become effective following hearing pursuant to W.S. 20-6-209(c); or

(iv) Voluntary assignment by the obligor pursuant to W.S. 20-6-207.

(b) If the payor's address is not known on the dates specified in subsection (a) of this section, the clerk shall send notice to payor no later than fifteen (15) days after determining the payor's address. At any time following service to the payor of the income withholding order and notice to payor under subsection (a) of this section, and if no support has been assigned, the obligee may prepare and deliver to the clerk of the court an amended notice to payor decreasing the amount to be withheld from the obligor's income. The clerk shall mail a certified copy of the amended notice to the payor and to the obligor. The amended notice is binding upon the payor from the date of receipt.

(c) In addition to subsection (a) of this section and in those cases in which it is known that the obligor may be placed in employment with a payor by a labor or other private or public employment referral organization referring individuals to employment and operating within this state, the clerk may prepare and mail to the referring organization certified copies of the income withholding order and the notice to payor or an amended notice to payor pursuant to subsection (b) of this section. The clerk shall send notice under this subsection within the dates specified under subsection (a) of this section. The referring organization shall at the time of placement, forward the Notice To Payor to each payor with which the organization places the obligor. Upon forwarding the Notice To Payor, a labor or other nongovernmental organization shall notify the district court that the income withholding order has been forwarded to the payor. The district court shall, at the time it sends the withholding order and the notice to payor to the referring organization, include a self-addressed, stamped return envelope for the referring organization's use for notification to the district court. Additional envelopes shall be available to the referring organization upon request. Any labor or other nongovernmental organization failing to provide notification to any payor at the time of placement as required by this subsection is liable for an amount of up to fifty dollars (\$50.00) that the payor should have withheld from the obligor's income. The department of employment may be reimbursed by the department of family services for its costs incurred under this act.

20-6-212. Duties of the payor; administrative fee.

(a) Upon receipt of certified copies of the notice to payor and the income withholding order, the payor shall deduct and pay over income as specified in the notice.

(b) The payor shall begin the withholding no later than the first pay period that occurs following service on the payor of the notice and income withholding order. The payor shall deduct the maximum amount required by the notice, unless otherwise ordered by the court, for each pay period. The payor is not required to vary his normal pay and disbursement cycles in order to comply with this subsection. The payor shall remit the amount withheld to the state disbursement unit within seven (7) days after the date the obligor is paid, and the remittance shall include the name and social security number of the obligor and the date the income was withheld.

(c) In addition to the amount withheld from the obligor's income, the payor may, subject to limitations under W.S. 20-6-210(b)(iii) and 27-3-319(c), deduct and retain from the obligor's remaining income five dollars (\$5.00) for each payment made pursuant to the income withholding order.

(d) If the payor has received more than one (1) income withholding order from the clerk, all withheld amounts may be combined into a single payment in which case the payor shall separately identify the amount which is to be credited to each obligor. Upon request, the clerk of court may provide assistance to a payor in determining the amount to be credited to each obligor.

(e) Within thirty (30) days after the obligor's employment terminates or the obligor ceases to receive income from the payor the payor shall give written notice thereof to the clerk. The notice shall include the following information:

(i) When the obligor ceased to receive income from the payor or when the obligor left his employment;

(ii) The last known address of the obligor;

(iii) The name and address of the obligor's new payor if known.

(f) For a period of one (1) year from the date the obligor's employment terminates with the payor, the payor shall, upon request, disclose to the clerk or the department the following information:

(i) Any new address for the obligor of which the payor may become aware; and

(ii) The name and address of the obligor's new payor, if known to the payor.

(g) In the case of worker's compensation or unemployment compensation benefits, nothing in W.S. 20-6-202(a)(i) or (xv) shall require a payor to withhold an amount for any type of support or arrearage not authorized to be withheld from those benefits by federal law or regulation.

- (h) If insurance coverage of the obligor's children is provided by or through the payor, the payor shall notify the clerk within thirty (30) days of any lapse or material change in that coverage.
- (j) The payor shall not be liable to the obligor for any payment or disclosure made as authorized by this act.

20-6-213. Notice to clerk of changes.

- (a) After an income withholding order has become effective under this act and within fifteen (15) days of any change:
 - (i) The obligee and obligor shall notify the clerk in writing of any change of address; and
 - (ii) The obligor shall notify the clerk in writing of the name and address of any new payor.
- (b) The obligee shall give written notice to the clerk of the receipt of any other support payments including but not limited to, any federal offset or partial payment of any arrearage.
- (c) Within thirty (30) days after termination of the department's authorization to receive payments for the obligee, the department shall give notice in writing or by electronic data transfer to the clerk to send future payments directly to the obligee.

20-6-214. Duties of clerk of court.

- (a) The clerk shall:
 - (i) Maintain records showing receipt and disbursement of all funds received pursuant to this act;
 - (ii) Promptly distribute all funds received to the appropriate person or agency;
 - (iii) Promptly refund to the obligor any amounts shown to have been improperly withheld which are in the possession and control of the clerk;
 - (iv) Promptly notify the obligee upon receipt of information provided to the clerk pursuant to W.S. 20-6-212(e);
 - (v) Promptly notify the payor of suspension or termination of the income withholding order when:
 - (A) The court has ordered a suspension or termination as provided by W.S. 20-6-216;
 - (B) The clerk receives a verified written notice from the obligor or the agency of this or another jurisdiction to which an obligee has assigned his right to support that there is no longer a support obligation and all arrearages have been paid; or
 - (C) The location of the obligee is unknown and the clerk has been unable to deliver payments remitted under the income withholding order for a period of ninety (90) days.
 - (vi) Use forms specified by the department.
- (b) Repealed by Laws 1988, ch. 26, § 2.
- (c) When there exists more than one (1) current order for support, the clerk may distribute payments received pursuant to W.S. 20-6-206(b).

20-6-215. Minimum and maximum amount of withholding; allocation.

- (a) Subject to the limitation under W.S. 20-6-210(b)(iii) the aggregate amount of income withheld under an income withholding order served upon one (1) or more payors of an obligor shall:
 - (i) Satisfy the current support obligation under the support order; and
 - (ii) Include an additional amount to be applied toward the liquidation of any arrearage;
 - (iii) Include the amount actually withheld for support combined with the fee authorized by W.S. 20-6-212(c).
- (b) If the department is enforcing separate support obligations under this act against a single obligor, it shall allocate amounts withheld giving priority to current support up to the limits imposed under W.S. 20-6-210(b)(iii) using the allocation method provided in W.S. 20-6-206(b).

20-6-216. Petitions to modify, suspend or terminate income withholding order.

- (a) At any time after an income withholding order has been served upon a payor pursuant to W.S. 20-6-211, the obligor, the obligee or the department may petition the court to:
 - (i) Modify, suspend or terminate the income withholding order due to modification, suspension or termination of the support order;
 - (ii) Modify the amount of income to be withheld to reflect payment in full of the arrearage by income withholding or otherwise;

- (iii) Reduce the amount of income being withheld by a payor to conform to the maximum limitations under W.S. 20-6-210(b)(iii) and to order the repayment by the obligee to the obligor of any amounts withheld in violation of W.S. 20-6-210(b)(iii);
- (iv) Suspend the income withholding order because of inability to deliver the withheld income to the obligee due to the obligee's failure to provide the clerk with a mailing address or other means of delivery for a period of ninety (90) days;
- (v) Repealed by Laws 1993, ch. 199, § 2.
- (vi) Suspend the income withholding order when the suspension is consented to by:
 - (A) The obligor or the department if the support rights of the obligee have been assigned to the department; or
 - (B) The obligor and the person to whom the duty of support is owed. When the parties under this subparagraph agree to an alternative arrangement, the arrangement shall be in writing, signed by the parties and reviewed and entered in the record by the court.
- (b) An obligor may petition the court at any time to suspend or terminate an income withholding order upon grounds that:
 - (i) The obligor did not receive a copy of a required delinquency notice as provided by W.S. 20-6-209(a); and
 - (ii) Grounds exist as specified by W.S. 20-6-209(b) to contest the withholding.
- (c) An obligor may petition the court at any time to suspend the withholding of income when there is no longer a current order for support and all arrearages have been paid.
- (d) An income withholding order suspended under this section shall again become effective upon the subsequent occurrence of one (1) of the events specified by W.S. 20-6-205(a)(ii) or (iii). The income withholding order may thereafter be served upon a payor of the obligor subject to the notice and hearing requirements of this act.
- (e) The clerk shall mail to any affected payor a certified copy of any order entered under this section which affects the duties of the payor.

20-6-217. Award of attorney fees.

Any time a hearing is held pursuant to this act, reasonable attorney's fees may be awarded to the prevailing party.

20-6-218. Penalties.

- (a) A payor who fails to withhold income in the amount specified in the notice to payor is liable for any amount up to the accumulated amount the payor should have withheld from the obligor's income.
- (b) Payors shall pay in compliance with the instructions specified in the notice to payor and in accordance with the duties specified in W.S. 20-6-212. No payor shall use the existence of an income withholding order authorized by this act as grounds to discharge, discipline or otherwise penalize an obligor or as grounds to refuse to employ a person. Any payor who violates this subsection is subject to a civil penalty in an amount the court determines of not more than two hundred dollars (\$200.00). The penalty shall be collected from the violator, paid to the state treasurer and credited as provided in W.S. 8-1-109. Before the court imposes a civil penalty, the payor accused of a violation shall be notified, in writing, of the specific nature of the alleged violation and the time and place, at least ten (10) days from the date of the notice, when a hearing of the matter shall be held. After hearing or upon failure of the accused to appear at the hearing, the court shall determine the amount of the civil penalty to be imposed in accordance with the limitation in this subsection.
- (c) Except for a violation of subsection (b) of this section, an employer who complies in good faith with an income withholding order shall not be subject to civil liabilities.

20-6-219. Priority of income withholding order.

An income withholding order under this act has priority over any other legal process under state law against the same income.

20-6-220. Designation of federal administering agency.

The IV-D agency designated as the state agency to administer income withholding under this act for purposes of section 466(b)(5) and part D, title IV, section 454 of the federal Social Security Act is the child support enforcement unit of the department and, except where limited by federal law or regulation, the clerk of district court in each county.

20-6-222. Remedies in addition to other laws.

The rights, remedies, duties and penalties created by this act are in addition to and not in substitution for any other rights, remedies, duties and penalties created by any other law.

CHAPTER 7 VISITATION RIGHTS

20-7-101. Establishing grandparents' visitation rights.

(a) A grandparent may bring an original action against any person having custody of the grandparent's minor grandchild to establish reasonable visitation rights to the child. If the court finds, after a hearing, that visitation would be in the best interest of the child and that the rights of the child's parents are not substantially impaired, the court shall grant reasonable visitation rights to the grandparent. In any action under this section for which the court appoints a guardian ad litem, the grandparent shall be responsible for all fees and expenses associated with the appointment.

(b) Repealed By Laws 1997, ch. 71, § 2.

(c) No action to establish visitation rights may be brought by a grandparent under subsection (a) of this section if the minor grandchild has been adopted and neither adopting parent is a natural parent of the child.

(d) In any action or proceeding in which visitation rights have been granted to a grandparent under this section, the court may for good cause upon petition of the person having custody or who is the guardian of the child, revoke or amend the visitation rights granted to the grandparent.

20-7-102. Establishing primary caregivers' visitation rights.

(a) With notice or reasonable efforts to provide notice to the noncustodial parent, a person may bring an original action against any person having custody of the child to establish reasonable visitation rights to the child if the person bringing the original action has been the primary caregiver for the child for a period of not less than six (6) months within the previous eighteen (18) months. If the court finds, after a hearing, that visitation would be in the best interest of the child and that the rights of the child's parents are not substantially impaired, the court shall grant reasonable visitation rights to the primary caregiver. In any action under this section for which the court appoints a guardian ad litem, the person bringing the original action under this section shall be responsible for all fees and expenses associated with the appointment.

(b) No action to establish visitation rights under subsection (a) of this section may be brought by a person related to the child by blood or by a person acting as primary caregiver for the child prior to the adoption of the minor child when neither adopting parent is related by blood to the child.

(c) In any action or proceeding in which visitation rights have been granted to a primary caregiver under this section, the court may for good cause upon petition of the person having custody or who is the guardian of the child, revoke or amend the visitation rights granted to the primary caregiver.