§ 440. Order of support. 1. (a) Any support order made by the court in any proceeding under the provisions of article five-B of this act, pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or under the provisions of article four, five or five-A of this act (i) shall direct that payments of child support or combined child and spousal support collected on behalf of persons in receipt of services pursuant to section one hundred eleven-g of the social services law, or on behalf of persons in receipt of public assistance be made to the support collection unit designated by the appropriate social services district, which shall receive and disburse funds so paid; or (ii) shall be enforced pursuant to subdivision (c) of section five thousand two hundred forty-two of the civil practice law and rules at the same time that the court issues an order of support; and (iii) shall in either case, except as provided for herein, be effective as of the earlier of the date of the filing of the petition therefor, or, if the children for whom support is sought are in receipt of public assistance, the date for which their eligibility for public assistance was effective. Any retroactive amount of support due shall be support arrears/past due support and shall be paid in one sum or periodic sums, as the court directs, and any amount of temporary support which has been paid to be taken into account in calculating any amount of such retroactive support due. In addition, such retroactive child support shall be enforceable in any manner provided by law including, but not limited to, an execution for support enforcement pursuant to subdivision (b) of section fifty-two hundred forty-one of the civil practice law and rules. When a child receiving support is a public assistance recipient, or the order of support is being enforced or is to be enforced pursuant to section one hundred eleven-g of the social services law, the court shall establish the amount of retroactive child support and notify the parties that such amount shall be enforced by the support collection unit pursuant to an execution for support enforcement as provided for in subdivision (b) of section fifty-two hundred forty-one of the civil practice law and rules, or in such periodic payments as would have been authorized had such an execution been issued. In such case, the court shall not direct the schedule of repayment of retroactive support. Where such direction is for child support and parentage has been established by a voluntary acknowledgment

of parentage as defined in section forty-one hundred thirty-five-b of the public health law, the court shall inquire of the parties whether the acknowledgment has been duly filed, and unless satisfied that it has been so filed shall require the clerk of the court to file such acknowledgment with the appropriate registrar within five business days. The court shall not direct that support payments be made to the support collection unit unless the child, who is the subject of the order, is in receipt of public assistance or child support services pursuant to section one hundred eleven-g of the social services law. Any such order shall be enforceable pursuant to section fifty-two hundred forty-one or fifty-two hundred forty-two of the civil practice law and rules, or in any other manner provided by law. Such orders or judgments for child support and maintenance shall also be enforceable pursuant to article fifty-two of the civil practice law and rules upon a debtor's default as such term is defined in paragraph seven of subdivision (a) of section fifty-two hundred forty-one of the civil practice law and rules. The establishment of a default shall be subject to the procedures established for the determination of a mistake of fact for income executions pursuant to subdivision (e) of section fifty-two hundred forty-one of the civil practice law and rules. For the purposes of enforcement of child support orders or combined spousal and child support orders pursuant to section five thousand two hundred forty-one of the civil practice law and rules, a "default" shall be deemed to include amounts arising from retroactive support. Where permitted under federal law and where the record of the proceedings contains such information, such order shall include on its face the social security number and the name and address of the employer, if any, of the person chargeable with support provided, however, that failure to comply with this requirement shall not invalidate such order.

(b) (1) When the court issues an order of child support or combined child and spousal support on behalf of persons in receipt of public assistance or in receipt of services pursuant to section one hundred eleven-g of the social services law, the support collection unit shall issue an income execution immediately for child support or combined spousal and child support, and shall issue an execution for medical support enforcement in accordance with the provisions of the order of support unless: (i) the court finds and sets forth in writing the

reasons that there is good cause not to require immediate income withholding; or (ii) when the child is not in receipt of public assistance, a written agreement providing for an alternative arrangement has been reached between the parties. Such written agreement may include an oral stipulation made on the record resulting in a written order. For purposes of this paragraph, good cause shall mean substantial harm to the debtor. The absence of an arrearage or the mere issuance of an income execution shall not constitute good cause. When an immediate income execution or an execution for medical support enforcement is issued by the support collection unit, such execution shall be issued pursuant to section five thousand two hundred forty-one of the civil practice law and rules, except that the provisions thereof relating to mistake of fact, default and any other provisions which are not relevant to the issuance of an execution pursuant to this paragraph shall not apply; provided, however, that if the support collection unit makes an error in the issuance of an execution pursuant to this paragraph, and such error is to the detriment of the debtor, the support collection unit shall have thirty days after notification by the debtor to correct the error. Where permitted under federal law and where the record of the proceedings contains such information, such order shall include on its face the social security number and the name and address of the employer, if any, of the person chargeable with support; provided, however, that failure to comply with this requirement shall not invalidate such order. When the court determines that there is good cause not to immediately issue an income execution or when the parties agree to an alternative arrangement as provided in this paragraph, the court shall provide expressly in the order of support that the support collection unit shall not issue an immediate income execution. Notwithstanding any such order, the support collection unit shall issue an income execution for support enforcement when the debtor defaults on the support obligation, as defined in section five thousand two hundred forty-one of the civil practice law and rules. When an income execution for support enforcement is issued pursuant to this paragraph, such income execution shall supersede any income deduction order previously issued for enforcement of the same support order pursuant to subdivision (c) of section five thousand two hundred forty-two of the civil practice law and rules, whereupon such income deduction order shall cease to have

further effect.

(2) When the court issues an order of child support or combined child and spousal support on behalf of persons other than those in receipt of public assistance or in receipt of services pursuant to section one hundred eleven-g of the social services law, the court shall issue an income deduction order pursuant to subdivision (c) of section five thousand two hundred forty-two of the civil practice law and rules at the same time at which it issues the order of support. The court shall enter the income deduction order unless the court finds and sets forth in writing: (i) the reasons that there is good cause not to require immediate income withholding; or (ii) that an agreement providing for an alternative arrangement has been reached between the parties. Such agreement may include a written agreement or an oral stipulation, made on the record, that results in a written order. For purposes of this paragraph, good cause shall mean substantial harm to the debtor. The absence of an arrearage or the mere issuance of an income deduction order shall not constitute good cause. Where permitted under federal law and where the record of the proceedings contains such information, the order shall include on its face the social security number and the name and address of the employer, if any, of the person chargeable with support; provided, however, that failure to comply with this requirement shall not invalidate the order. When the court determines that there is good cause not to immediately issue an income deduction order or when the parties agree to an alternative arrangement as provided in this paragraph, the court shall not issue an income deduction order. In addition, the court shall make provisions for health insurance benefits in accordance with the requirements of section four hundred sixteen of this article.

(c) Any order of support issued on behalf of a child in receipt of family assistance or child support enforcement services pursuant to section one hundred eleven-g of the social services law shall be subject to review and adjustment by the support collection unit pursuant to section one hundred eleven-n of the social services law, section two hundred forty-c of the domestic relations law and section four hundred thirteen-a of this article. Such review and adjustment shall be in addition to any other activities undertaken by the support collection unit relating to the establishment, modification, and enforcement of

support orders payable to such unit.

2. The court shall require any person chargeable with support under the provisions of article five-B of this act or under any support order made pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or in any proceeding under the provisions of article four, five or five-A of this act to provide his or her social security number, the name and address of his or her employer and to report any changes of employer or change in employment status affecting compensation received, including rate of compensation or loss of employment, to the support collection unit designated by the appropriate social services district and to keep such support collection unit advised of his or her current employer and current employment status; provided, however, that a social security number may be required only where permitted under federal law.

3. The amount of support determined in accordance with the statewide child support standards, as set forth in section four hundred thirteen of this act, shall constitute prima facie evidence of the ability of any person chargeable with support in accordance with the provisions of article three-A of the domestic relations law or under any support order made pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or in any proceeding under the provisions of article four, five or five-A of this chapter to support or contribute such amount towards the support of his or her children.

4. Any support order made by the court in any proceeding under the provisions of article five-B of this act, pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or under the provisions of this article or article five or five-A of this act shall include, on its face, a notice printed or typewritten in a size equal to at least eight point bold type:

(a) informing the respondent that a willful failure to obey the order may, after court hearing, result in commitment to jail for a term not to exceed six months for contempt of court, and

(b) informing the parties of their right to seek a modification of the

child support order upon a showing of:

(i) a substantial change in circumstances; or

(ii) that three years have passed since the order was entered, last modified or adjusted; or

(iii) there has been a change in either party's gross income by fifteen percent or more since the order was entered, last modified, or adjusted;

however, if the parties have specifically opted out of subparagraph (ii) or (iii) of this paragraph in a validly executed agreement or stipulation, then that basis to seek modification does not apply.

5. The court shall direct that a copy of any child support or combined child and spousal support order issued by the court on or after the first day of October, nineteen hundred ninety-eight, in any proceeding pursuant to a reference from the supreme court under section two hundred fifty-one of the domestic relations law or under the provisions of article four, five, five-A or five-B of this act be provided promptly to the state case registry established pursuant to subdivision four-a of section one hundred eleven-b of the social services law.

6. Any order of support made by the court shall provide for health insurance benefits pursuant to section four hundred sixteen of this article.