

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

**DARLINE SUE HOFFART, now known as
DARLINE SUE WARNER,**

Petitioner,

vs.

KELLY WAYNE HOFFART,

Respondent.

Case No. 19483

ORDER MODIFYING DECREE

DATE OF HEARING: December 12, 2002.

DATE OF RENDITION: December 14, 2002.

DATE OF ENTRY: Date of filing by court clerk (§ 25-1301).

APPEARANCES:

For the petitioner: Forrest F. Peetz with petitioner.

For the respondent: Thurman Gay with respondent.

SUBJECT OF HEARING: Petitioner's application for modification of decree filed on August 27, 2002.

DECREE INVOLVED:

Date of original decree: February 5, 1993.

Date last modified: October 15, 1999.

FINDINGS: The court finds:

1. There has been a material change of circumstances since the decree was last modified.

2. The custody of the minor child, Amber Lynn Hoffart, should be changed from the respondent to the petitioner effective on January 1, 2003, subject to reasonable rights of visitation and correspondence in the respondent. The custody of the minor child, Mikayla Rea Hoffart, should remain with the respondent, subject to reasonable rights of visitation and correspondence in the petitioner.

3. The child support should be modified.

4. The monthly net incomes of the parties are set forth on Appendix "B" attached hereto and incorporated by reference. The child support amounts determined pursuant to the Nebraska Child Support Guidelines are computed on Appendix "B." Although the parties stipulated that the petitioner has no current earnings, the evidence shows that she has an earning capacity and the support is calculated accordingly.

5. The evidence suggests that the parties can cooperate to effectuate reasonable visitation without necessity of a specific schedule.

ORDER: IT IS THEREFORE ORDERED, ADJUDGED, AND DECREEED that:

1. **RELIEF GRANTED/DENIED:** The application is granted to the extent of the relief set forth below and is otherwise denied.

2. **PRIOR DECREE OTHERWISE EFFECTIVE:** The decree previously entered in this case (and as previously modified, if applicable) shall remain in full force and effect except as expressly modified by this order.

3. **CHILD CUSTODY:** The custody of the minor child, Amber Lynn Hoffart, is changed from the respondent to the petitioner effective on January 1, 2003, subject to reasonable rights of visitation and correspondence in the respondent. The custody of the minor child, Mikayla Rea Hoffart, shall remain with the respondent, subject to reasonable rights of visitation and correspondence in the petitioner. The provisions of Appendix "A" attached hereto are incorporated herein and the parties ordered to comply therewith. Failure of the parties to cooperate in effectuating reasonable visitation shall be a material change of circumstances sufficient to support modification of the decree. The parties shall share the responsibility for visitation transportation by meeting approximately half-way to exchange the children or such other method as the parties may agree.

4. **SUPPORT REDUCED:** The child support obligation of the petitioner is reduced to zero dollars (\$0.00) per month, effective on January 1, 2003, and thereafter until further order.

5. **SUPPORT MODIFIED:** The respondent shall be required to pay child support, effective as of the payment due on January 1, 2003, of:

- a. \$50.00 per month when there are two children to be supported, each party having custody of one child;
- b. \$249.00 per month when there is only one child to be supported, and such child is in the petitioner's custody.

6. **TERMINATION OF SUPPORT:** The support obligation for each child continues until such child reaches majority under Nebraska law (presently age 19), becomes emancipated, becomes self-supporting, marries, or dies, or until the further order of the court.

7. **PAYMENTS:** All payments shall be paid, for disbursement to the person entitled thereto, to:

- a. The **State Disbursement Unit** for **child, medical, or spousal support**; and,
- b. The **Clerk of the District Court** for this county for **alimony, court costs, or attorneys' fees**.

8. **INTEREST:** Delinquent support shall bear interest at the rate of 3.507% per annum from the time and in the manner provided by law.

9. **INFORMATION REPORTING:** Each party shall be required to furnish the clerk of this court, in writing, with such party's address (including specific street address or other physical location, in addition to mailing address), telephone number, and social security number, the name and address of such party's employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information that the Court shall deem relevant until the judgment is paid in full. Each party shall also be required to advise the Clerk of any changes in such information between the time of entry of this order and payment of the judgment in full. Failure to comply with the provisions of this section shall be punishable by contempt.

10. **SSN:** The social security numbers applicable to the parties and the affected minor children are shown on Appendix "B" attached. The children's birth dates are also shown on Appendix "B."

11. **INCOME WITHHOLDING:** The income of the any party obligated to pay support hereunder shall be subject to income withholding, which shall be implemented pursuant to the Income Withholding for Child Support Act.

12. **SUPPORT ENFORCEMENT:** In the event that any such party obligated to pay support fails to pay any child, medical, or spousal support payments, as such failure is certified each month by the State Disbursement Unit in cases where court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, such party may be required to appear before this Court on a date to be determined by the Court and show cause why such payment was not made. In the event such party fails to pay and appear as so ordered, a warrant shall be issued for such party's arrest.

13. **TAX EXEMPTIONS:** For tax year 2002, the respondent shall be entitled to claim the federal and state income tax exemptions for both children. For tax years 2003 and future, each party shall be entitled to claim the federal and state income tax exemptions for the child in such party's custody.

14. **JUDGMENT:** Judgment is hereby rendered accordingly. Each party shall be required to pay their own respective costs and attorney fees.

Signed in chambers at **Ainsworth**, Nebraska, on **December 14, 2002;** **BY THE COURT:**
DEEMED ENTERED upon file stamp date by court clerk.

If checked, the court clerk shall:

- Mail a copy of this order to all counsel of record and any pro se parties.
Done on _____, 20____ by _____.
- Note the decision on the trial docket as: [date of filing] **Signed "Order Modifying Decree" entered.**
Done on _____, 20____ by _____.
- Mail postcard/notice required by § 25-1301.01 within 3 days.
Done on _____, 20____ by _____.
- Enter judgment on the judgment record.
Done on _____, 20____ by _____.

William B. Cassel
District Judge

Mailed to: