IN THE COURT OF APPEALS OF IOWA

No. 1-476 / 90-831

FILED
FEB 25 1992
CLERK SUPREME COURT

701

**STATE OF IOWA, ex rel.,
DEPARTMENT OF HUMAN SERVICES,
JANET PROCTOR,**

Petitioner-Appellee,

vs.

ROBERT LOUIS EBELING,

Respondent-Appellant.

Appeal from the Iowa District Court for Greene County, Gary L. McMinimee, Judge.

Appellant challenges the district court's adjudication that he was responsible for past child support in favor of his ex-wife and the State of Iowa, Department of Human Services. **AFFIRMED BY OPERATION OF LAW.**

Robert L. Ebeling, Pro Se.

Bonnie J. Campbell, Attorney General, John Parmeter, and Mark Haverkamp, Assitant Attorneys General, and Kim M. Kouf, Assistant County Attorney, for appellee.

Heard by Donielson, P.J., and Hayden and Sackett, JJ., but decided en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1989).

AFFIRMED.

Donielson, P.J., and Hayden and Habhab, JJ., would affirm.

Oxberger, C.J., and Schlegel and Sackett, JJ., would set aside the judgment and remand for hearing.