

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 47

Introduced by Hansen, M., 26.

Read first time January 07, 2021

Committee:

- 1 A BILL FOR AN ACT relating to children and families; to amend section
- 2 43-512.03, Reissue Revised Statutes of Nebraska, and section 42-369,
- 3 Revised Statutes Cumulative Supplement, 2020; to require notice of
- 4 obligee remedies in child support orders; to make obligees parties
- 5 to certain child support enforcement proceedings; to harmonize
- 6 provisions; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-369, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 42-369 (1) All orders, decrees, or judgments for temporary or
4 permanent support payments, including child, spousal, or medical support,
5 and all orders, decrees, or judgments for alimony or modification of
6 support payments or alimony shall direct the payment of such sums to be
7 made commencing on the first day of each month for the use of the persons
8 for whom the support payments or alimony have been awarded. Such payments
9 shall be made to the clerk of the district court (a) when the order,
10 decree, or judgment is for spousal support, alimony, or maintenance
11 support and the order, decree, or judgment does not also provide for
12 child support, and (b) when the payment constitutes child care or day
13 care expenses, unless payments under subdivision (1)(a) or (1)(b) of this
14 section are ordered to be made directly to the obligee. All other support
15 order payments shall be made to the State Disbursement Unit. In all cases
16 in which income withholding has been implemented pursuant to the Income
17 Withholding for Child Support Act or sections 42-364.01 to 42-364.14,
18 support order payments shall be made to the State Disbursement Unit. The
19 court may order such payment to be in cash or guaranteed funds.

20 (2)(a) If the party against whom an order, decree, or judgment for
21 child support is entered or the custodial party has health care coverage
22 available to him or her through an employer, organization, or other
23 health care coverage entity which may extend to cover any children
24 affected by the order, decree, or judgment and the health care coverage
25 is accessible to the children and is available to the responsible party
26 at reasonable cost, the court shall require health care coverage to be
27 provided. Health care coverage is accessible if the covered children can
28 obtain services from a plan provider with reasonable effort by the
29 custodial party. When the administrative agency, court, or other tribunal
30 determines that the only health care coverage option available through
31 the noncustodial party is a plan that limits service coverage to

1 providers within a defined geographic area, the administrative agency,
2 court, or other tribunal shall determine whether the child lives within
3 the plan's service area. If the child does not live within the plan's
4 service area, the administrative agency, court, or other tribunal shall
5 determine whether the plan has a reciprocal agreement that permits the
6 child to receive coverage at no greater cost than if the child resided in
7 the plan's service area. The administrative agency, court, or other
8 tribunal shall also determine if primary care is available within thirty
9 minutes or thirty miles of the child's residence. For the purpose of
10 determining the accessibility of health care coverage, the administrative
11 agency, court, or other tribunal may determine and include in an order
12 that longer travel times are permissible if residents, in part or all of
13 the service area, customarily travel distances farther than thirty
14 minutes or thirty miles. If primary care services are not available
15 within these constraints, the health care coverage is presumed
16 inaccessible. If health care coverage is not available or is inaccessible
17 and one or more of the parties are receiving Title IV-D services, then
18 cash medical support shall be ordered. Cash medical support or the cost
19 of health care coverage is considered reasonable in cost if the cost to
20 the party responsible for providing medical support does not exceed three
21 percent of his or her gross income. In applying the three-percent
22 standard, the cost is the cost of adding the children to existing health
23 care coverage or the difference between self-only and family health care
24 coverage. Cash medical support payments shall not be ordered if, at the
25 time that the order is issued or modified, the responsible party's income
26 is or such expense would reduce the responsible party's net income below
27 the basic subsistence limitation provided in Nebraska Court Rule section
28 4-218. If such rule does not describe a basic subsistence limitation, the
29 responsible party's net income shall not be reduced below nine hundred
30 three dollars net monthly income for one person or below the poverty
31 guidelines updated annually in the Federal Register by the United States

1 Department of Health and Human Services under the authority of 42 U.S.C.
2 9902(2).

3 (b) For purposes of this section:

4 (i) Health care coverage has the same meaning as in section
5 44-3,144; and

6 (ii) Cash medical support means an amount ordered to be paid toward
7 the cost of health care coverage provided by a public entity or by
8 another parent through employment or otherwise or for other medical costs
9 not covered by insurance or other health care coverage.

10 (3)(a) All orders, decrees, or judgments for temporary or permanent
11 child support payments, including child support and medical support, and
12 all orders, decrees, or judgments for modification of such support
13 payments shall include a notice to the obligee in substantially the
14 following form: "If you are owed court-ordered child support and it is
15 delinquent, you may file an Affidavit and Application for Order to Show
16 Cause with this court. This affidavit and application asks the court to
17 enter an order requiring the person who owes support to appear in court
18 and show cause why such person should not be held in contempt of court
19 for a failure to follow the court's order. Forms and instructions are
20 available on the Nebraska Supreme Court's web site."

21 (b) This subsection shall not be construed to limit an obligee's
22 remedies. An obligee may use any other collection methods allowed by law
23 and may request assistance from the Nebraska Child Support Payment
24 Center.

25 (4) {3} A support order, decree, or judgment may include the
26 providing of necessary shelter, food, clothing, care, medical support as
27 defined in section 43-512, medical attention, expenses of confinement,
28 education expenses, funeral expenses, and any other expense the court may
29 deem reasonable and necessary.

30 (5) {4} Orders, decrees, and judgments for temporary or permanent
31 support or alimony shall be filed with the clerk of the district court

1 and have the force and effect of judgments when entered. The clerk and
2 the State Disbursement Unit shall disburse all payments received as
3 directed by the court and as provided in sections 42-358.02 and
4 43-512.07. Records shall be kept of all funds received and disbursed by
5 the clerk and the unit and shall be open to inspection by the parties and
6 their attorneys.

7 ~~(6) (5)~~ Unless otherwise specified by the court, an equal and
8 proportionate share of any child support awarded shall be presumed to be
9 payable on behalf of each child subject to the order, decree, or judgment
10 for purposes of an assignment under section 43-512.07.

11 Sec. 2. Section 43-512.03, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 43-512.03 (1) The county attorney or authorized attorney shall:

14 (a) On request by the Department of Health and Human Services as
15 described in subsection (2) of this section or when the investigation or
16 application filed under section 43-512 or 43-512.02 justifies, file a
17 complaint against a nonsupporting party in the district, county, or
18 separate juvenile court praying for an order for child or medical support
19 in cases when there is no existing child or medical support order. After
20 notice and hearing, the court shall adjudicate the child and medical
21 support liability of either party and enter an order accordingly;

22 (b) Enforce child, spousal, and medical support orders by an action
23 for income withholding pursuant to the Income Withholding for Child
24 Support Act;

25 (c) In addition to income withholding, enforce child, spousal, and
26 medical support orders by other civil actions or administrative actions,
27 citing the defendant for contempt, or filing a criminal complaint;

28 (d) Establish paternity and collect child and medical support on
29 behalf of children born out of wedlock; and

30 (e) Carry out sections 43-512.12 to 43-512.18.

31 (2) The department may periodically review cases of individuals

1 receiving enforcement services and make referrals to the county attorney
2 or authorized attorney.

3 (3) In any action brought by or intervened in by a county attorney
4 or authorized attorney under the Income Withholding for Child Support
5 Act, the License Suspension Act, the Uniform Interstate Family Support
6 Act, or sections 42-347 to 42-381, 43-290, 43-512 to 43-512.18, 43-1401
7 to 43-1418, and 43-3328 to 43-3339, such attorneys shall represent the
8 State of Nebraska.

9 (4) The State of Nebraska shall be a real party in interest in any
10 action brought by or intervened in by a county attorney or authorized
11 attorney for the purpose of establishing paternity or securing,
12 modifying, suspending, or terminating child or medical support or in any
13 action brought by or intervened in by a county attorney or authorized
14 attorney to enforce an order for child, spousal, or medical support.

15 (5) At the commencement of any action brought by or intervened in by
16 a county attorney or authorized attorney for the purpose of establishing
17 paternity or securing, modifying, suspending, or terminating child or
18 medical support, any known obligee shall be joined as a real party in
19 interest to such action.

20 (6) ~~(5)~~ Nothing in this section shall be construed to interpret
21 representation by a county attorney or an authorized attorney as creating
22 an attorney-client relationship between the county attorney or authorized
23 attorney and any party or witness to the action, other than the State of
24 Nebraska, regardless of the name in which the action is brought.

25 Sec. 3. Original section 43-512.03, Reissue Revised Statutes of
26 Nebraska, and section 42-369, Revised Statutes Cumulative Supplement,
27 2020, are repealed.