

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 833**

Introduced by Schumacher, 22.

Read first time January 08, 2016

Committee:

- 1 A BILL FOR AN ACT relating to child support; to amend section 42-348,
- 2 Reissue Revised Statutes of Nebraska, sections 43-512.03 and
- 3 43-1411.01, Revised Statutes Cumulative Supplement, 2014, and
- 4 section 43-512.04, Revised Statutes Supplement, 2015; to change
- 5 provisions relating to child support enforcement actions as
- 6 prescribed; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-348, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 42-348 (1) All proceedings under sections 42-347 to 42-381 shall be  
4 brought in the district court of the county in which one of the parties  
5 resides. Proceedings may be transferred to a separate juvenile court or  
6 county court sitting as a juvenile court which has acquired jurisdiction  
7 pursuant to section 43-2,113. Certified copies of orders filed with the  
8 clerk of the court pursuant to such section shall be treated in the same  
9 manner as similar orders issued by the court.

10 (2) A proceeding to enforce an order of child support may be brought  
11 in the court as determined under subsection (1) of this section of the  
12 county in which (a) the child support order was originally entered or (b)  
13 the child who is the subject of such support has continuously resided for  
14 at least ninety days of the one hundred eighty days next preceding the  
15 filing of the proceeding.

16 Sec. 2. Section 43-512.03, Revised Statutes Cumulative Supplement,  
17 2014, is amended to read:

18 43-512.03 (1) The county attorney or authorized attorney shall:

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

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

30 (c) In addition to income withholding, enforce child, spousal, and  
31 medical support orders by other civil actions or administrative actions,

1 citing the defendant for contempt, or filing a criminal complaint. A  
2 proceeding to enforce an order of child support by civil action may be  
3 brought in the court as determined under subdivision (1)(a) of this  
4 section of the county in which (i) the child support order was originally  
5 entered or (ii) the child who is the subject of such support has  
6 continuously resided for at least ninety days of the one hundred eighty  
7 days next preceding the filing of the proceeding;

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

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

11 (2) The department may periodically review cases of individuals  
12 receiving enforcement services and make referrals to the county attorney  
13 or authorized attorney.

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

20 (4) The State of Nebraska shall be a real party in interest in any  
21 action brought by or intervened in by a county attorney or authorized  
22 attorney for the purpose of establishing paternity or securing,  
23 modifying, suspending, or terminating child or medical support or in any  
24 action brought by or intervened in by a county attorney or authorized  
25 attorney to enforce an order for child, spousal, or medical support.

26 (5) Nothing in this section shall be construed to interpret  
27 representation by a county attorney or an authorized attorney as creating  
28 an attorney-client relationship between the county attorney or authorized  
29 attorney and any party or witness to the action, other than the State of  
30 Nebraska, regardless of the name in which the action is brought.

31 Sec. 3. Section 43-512.04, Revised Statutes Supplement, 2015, is

1 amended to read:

2 43-512.04 (1) An action for child support or medical support may be  
3 brought separate and apart from any action for dissolution of marriage.  
4 The complaint initiating the action shall be filed with the clerk of the  
5 district court and may be heard by the county court or the district court  
6 as provided in section 25-2740. Such action for support may be filed on  
7 behalf of a child:

8 (a) Whose paternity has been established (i) by prior judicial order  
9 in this state, (ii) by a prior determination of paternity made by any  
10 other state or by an Indian tribe as described in subsection (1) of  
11 section 43-1406, or (iii) by the marriage of his or her parents as  
12 described in section 42-377 or subsection (2) of section 43-1406; or

13 (b) Whose paternity is presumed as described in section 43-1409 or  
14 subsection (2) of section 43-1415.

15 (2) The father, not having entered into a judicially approved  
16 settlement or being in default in the performance of the same, may be  
17 made a respondent in such action. The mother of the child may also be  
18 made a respondent in such an action. Such action shall be commenced by a  
19 complaint of the mother of the child, the father of the child whose  
20 paternity has been established, the guardian or next friend of the child,  
21 the county attorney, or an authorized attorney.

22 (3) The complaint shall set forth the basis on which paternity was  
23 previously established or presumed, if the respondent is the father, and  
24 the fact of nonsupport and shall ask that the father, the mother, or both  
25 parents be ordered to provide for the support of the child. Summons shall  
26 issue against the father, the mother, or both parents and be served as in  
27 other civil proceedings, except that such summons may be directed to the  
28 sheriff of any county in the state and may be served in any county. The  
29 method of trial shall be the same as in actions formerly cognizable in  
30 equity, and jurisdiction to hear and determine such actions for support  
31 is hereby vested in the district court of the district or the county

1 court of the county where the child is domiciled or found or, for cases  
2 under the Uniform Interstate Family Support Act if the child is not  
3 domiciled or found in Nebraska, where the parent of the child is  
4 domiciled.

5 (4) In such proceeding, if the defendant is the presumed father as  
6 described in subdivision (1)(b) of this section, the court shall make a  
7 finding whether or not the presumption of paternity has been rebutted.  
8 The presumption of paternity created by acknowledgment as described in  
9 section 43-1409 may be rebutted as part of an equitable proceeding to  
10 establish support by genetic testing results which exclude the alleged  
11 father as being the biological father of the child. A court in such a  
12 proceeding may order genetic testing as provided in sections 43-1414 to  
13 43-1418.

14 (5) If the court finds that the father, the mother, or both parents  
15 have failed adequately to support the child, the court shall issue a  
16 decree directing him, her, or them to do so, specifying the amount of  
17 such support, the manner in which it shall be furnished, and the amount,  
18 if any, of any court costs and attorney's fees to be paid by the father,  
19 the mother, or both parents. Income withholding shall be ordered pursuant  
20 to the Income Withholding for Child Support Act. The court may require  
21 the furnishing of bond to insure the performance of the decree in the  
22 same manner as is provided for in section 42-358.05 or 43-1405. Failure  
23 on the part of the defendant to perform the terms of such decree shall  
24 constitute contempt of court and may be dealt with in the same manner as  
25 other contempts. The court may also order medical support and the payment  
26 of expenses as described in section 43-1407.

27 (6) An action to enforce an order of child support may be brought in  
28 the county court or district court of the county in which (a) the child  
29 support order was originally entered or (b) the child who is the subject  
30 of such support has continuously resided for at least ninety days of the  
31 one hundred eighty days next preceding the filing of the proceeding.

1           Sec. 4. Section 43-1411.01, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3           43-1411.01 (1) An action for paternity or parental support under  
4 sections 43-1401 to 43-1418 may be initiated by filing a complaint with  
5 the clerk of the district court as provided in section 25-2740. Such  
6 proceeding may be heard by the county court or the district court as  
7 provided in section 25-2740. A paternity determination under sections  
8 43-1411 to 43-1418 may also be decided in a county court or separate  
9 juvenile court if the county court or separate juvenile court already has  
10 jurisdiction over the child whose paternity is to be determined.

11           (2) An action to enforce an order of parental support may be brought  
12 in the county court or district court of the county in which (a) the  
13 parental support order was originally entered or (b) the child who is the  
14 subject of such support has continuously resided for at least ninety days  
15 of the one hundred eighty days next preceding the filing of the  
16 proceeding.

17           (3 2) Whenever termination of parental rights is placed in issue in  
18 any case arising under sections 43-1401 to 43-1418, the Nebraska Juvenile  
19 Code and the Parenting Act shall apply to such proceedings.

20           Sec. 5. Original section 42-348, Reissue Revised Statutes of  
21 Nebraska, sections 43-512.03 and 43-1411.01, Revised Statutes Cumulative  
22 Supplement, 2014, and section 43-512.04, Revised Statutes Supplement,  
23 2015, are repealed.