

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 233

Introduced by Cavanaugh, J., 9.

Read first time January 10, 2023

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to child support enforcement; to amend
2 sections 43-512, 43-512.07, and 68-1713, Reissue Revised Statutes of
3 Nebraska, and section 68-1201, Revised Statutes Cumulative
4 Supplement, 2022; to provide for a child support payment disregard;
5 to eliminate child support income for purposes of determining
6 eligibility for the aid to dependent children program; to require
7 implementation of a child support disregard policy; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-512, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-512 (1) Any dependent child as defined in section 43-504 or any
4 relative or eligible caretaker of such a dependent child may file with
5 the Department of Health and Human Services a written application for
6 financial assistance for such child on forms furnished by the department.

7 (2) The department, through its agents and employees, shall make
8 such investigation pursuant to the application as it deems necessary or
9 as may be required by the county attorney or authorized attorney. If the
10 investigation or the application for financial assistance discloses that
11 such child has a parent or stepparent who is able to contribute to the
12 support of such child and has failed to do so, a copy of the finding of
13 such investigation and a copy of the application shall immediately be
14 filed with the county attorney or authorized attorney.

15 (3) The department shall make a finding as to whether the
16 application referred to in subsection (1) of this section should be
17 allowed or denied. If the department finds that the application should be
18 allowed, the department shall further find the amount of monthly
19 assistance which should be paid with reference to such dependent child.
20 Except as may be otherwise provided, payments shall be made by unit size
21 and shall be consistent with subdivisions (1)(p), (1)(q), (1)(t), ~~and~~ (1)
22 (u), and (1)(v) of section 68-1713. Beginning on August 30, 2015, the
23 maximum payment level for monthly assistance shall be fifty-five percent
24 of the standard of need described in section 43-513.

25 No payments shall be made for amounts totaling less than ten dollars
26 per month except in the recovery of overpayments.

27 (4) The amount which shall be paid as assistance with respect to a
28 dependent child shall be based in each case upon the conditions disclosed
29 by the investigation made by the department. An appeal shall lie from the
30 finding made in each case to the chief executive officer of the
31 department or his or her designated representative. Such appeal may be

1 taken by any taxpayer or by any relative of such child. Proceedings for
2 and upon appeal shall be conducted in the same manner as provided for in
3 section 68-1016.

4 (5)(a) For the purpose of preventing dependency, the department
5 shall adopt and promulgate rules and regulations providing for services
6 to former and potential recipients of aid to dependent children and
7 medical assistance benefits. The department shall adopt and promulgate
8 rules and regulations establishing programs and cooperating with programs
9 of work incentive, work experience, job training, and education. The
10 provisions of this section with regard to determination of need, amount
11 of payment, maximum payment, and method of payment shall not be
12 applicable to families or children included in such programs. Income and
13 assets described in section 68-1201 shall not be included in
14 determination of need under this section.

15 (b) If a recipient of aid to dependent children becomes ineligible
16 for aid to dependent children as a result of increased hours of
17 employment or increased income from employment after having participated
18 in any of the programs established pursuant to subdivision (a) of this
19 subsection, the recipient may be eligible for the following benefits, as
20 provided in rules and regulations of the department in accordance with
21 sections 402, 417, and 1925 of the federal Social Security Act, as
22 amended, Public Law 100-485, in order to help the family during the
23 transition from public assistance to independence:

24 (i) An ongoing transitional payment that is intended to meet the
25 family's ongoing basic needs which may include food, clothing, shelter,
26 utilities, household goods, personal care items, and general incidental
27 expenses during the five months following the time the family becomes
28 ineligible for assistance under the aid to dependent children program, if
29 the family's earned income is at or below one hundred eighty-five percent
30 of the federal poverty level at the time the family becomes ineligible
31 for the aid to dependent children program. Payments shall be made in five

1 monthly payments, each equal to one-fifth of the aid to dependent
2 children payment standard for the family's size at the time the family
3 becomes ineligible for the aid to dependent children program. If during
4 the five-month period, (A) the family's earnings exceed one hundred
5 eighty-five percent of the federal poverty level, (B) the family members
6 are no longer working, (C) the family ceases to be Nebraska residents,
7 (D) there is no longer a minor child in the family's household, or (E)
8 the family again becomes eligible for the aid to dependent children
9 program, the family shall become ineligible for any remaining
10 transitional benefits under this subdivision;

11 (ii) Child care as provided in subdivision (1)(c) of section
12 68-1724; and

13 (iii) Except as may be provided in accordance with subsection (2) of
14 section 68-1713 and subdivision (1)(c) of section 68-1724, medical
15 assistance for up to twelve months after the month the recipient becomes
16 employed and is no longer eligible for aid to dependent children.

17 (6) For purposes of sections 43-512 to 43-512.18:

18 (a) Authorized attorney shall mean an attorney, employed by the
19 county subject to the approval of the county board, employed by the
20 department, or appointed by the court, who is authorized to investigate
21 and prosecute child, spousal, and medical support cases. An authorized
22 attorney shall represent the state as provided in section 43-512.03;

23 (b) Child support shall be defined as provided in section 43-1705;

24 (c) Medical support shall include all expenses associated with the
25 birth of a child, cash medical support as defined in section 42-369,
26 health care coverage as defined in section 44-3,144, and medical and
27 hospital insurance coverage or membership in a health maintenance
28 organization or preferred provider organization;

29 (d) Spousal support shall be defined as provided in section 43-1715;

30 (e) State Disbursement Unit shall be defined as provided in section
31 43-3341; and

1 (f) Support shall be defined as provided in section 43-3313.

2 Sec. 2. Section 43-512.07, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 43-512.07 (1) Any action, payment, aid, or assistance listed in this
5 subsection shall constitute an assignment by operation of law to the
6 Department of Health and Human Services of any right to spousal or
7 medical support, when ordered by the court, and to child support, whether
8 or not ordered by the court, which a person may have in his or her own
9 behalf or on behalf of any other person for whom such person receives
10 such payments, aid, or assistance:

11 (a) Application for and acceptance of one or more aid to dependent
12 children payments by a parent, another relative, or a custodian;

13 (b) Receipt of aid by or on behalf of any dependent child as defined
14 in section 43-504; or

15 (c) Receipt of aid from child welfare funds.

16 The assignment under this section is the right to support payments
17 that become due while the person is receiving payments, aid, or
18 assistance listed in this subsection. The department shall be entitled to
19 retain such ~~child,~~ spousal, or other support up to the amount of
20 payments, aid, or assistance provided to a recipient. For purposes of
21 this section, the right to receive child support shall belong to the
22 child and the assignment shall be effective as to any such support even
23 if the recipient of the payments, aid, or assistance is not the same as
24 the payee of court-ordered support.

25 (2) After notification of the State Disbursement Unit receiving the
26 child, spousal, or other support payments made pursuant to a court order
27 that the person for whom such support is ordered is a recipient of
28 payments, aid, or assistance listed in subsection (1) of this section,
29 the department shall also give notice to the payee named in the court
30 order at his or her last-known address.

31 (3) Upon written or other notification from the department or from

1 another state of such assignment of child, spousal, or other support
2 payments, the State Disbursement Unit shall transmit the support payments
3 received to the department or the other state without the requirement of
4 a subsequent order by the court. The State Disbursement Unit shall
5 continue to transmit the support payments for as long as the payments,
6 aid, or assistance listed in subsection (1) of this section continues.

7 (4) Any court-ordered child, spousal, or other support remaining
8 unpaid for the months during which such payments, aid, or assistance was
9 made shall constitute a debt and a continuing assignment at the
10 termination of payments, aid, or assistance listed in subsection (1) of
11 this section, collectible by the department or other state as
12 reimbursement for such payments, aid, or assistance. The continuing
13 assignment shall only apply to support payments made during a calendar
14 period which exceed the specific amount of support ordered for that
15 period. When payments, aid, or assistance listed in subsection (1) of
16 this section have ceased and upon notice by the department or the other
17 state, the State Disbursement Unit shall continue to transmit to the
18 department or the other state any support payments received in excess of
19 the amount of support ordered for that specific calendar period until
20 notified by the department or the other state that the debt has been paid
21 in full.

22 (5) Effective January 1, 2024, the department shall pay to the
23 recipient of any payments, aid, or assistance listed in subsection (1) of
24 this section, the current child support collected pursuant to the
25 assignment. Such payments shall not be considered income for purposes of
26 calculating a recipient's eligibility for assistance. The department
27 shall disregard the amount of child support paid to the recipient in
28 calculating the amount of the recipient's monthly assistance payment.

29 Sec. 3. Section 68-1201, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 68-1201 In determining eligibility for the program for aid to

1 dependent children pursuant to section 43-512 as administered by the
2 State of Nebraska pursuant to the federal Temporary Assistance for Needy
3 Families program, 42 U.S.C. 601 et seq., for the low-income home energy
4 assistance program administered by the State of Nebraska pursuant to the
5 federal Energy Policy Act of 2005, 42 U.S.C. 8621 to 8630, for the
6 Supplemental Nutrition Assistance Program administered by the State of
7 Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C.
8 2011 et seq., and for the child care subsidy program established pursuant
9 to section 68-1202, the following shall not be included in determining
10 assets or income:

11 (1) Assets in or income from an educational savings account, a
12 Coverdell educational savings account described in 26 U.S.C. 530, a
13 qualified tuition program established pursuant to 26 U.S.C. 529, or any
14 similar savings account or plan established to save for qualified higher
15 education expenses as defined in section 85-1802;

16 (2) Income from scholarships or grants related to postsecondary
17 education, whether merit-based, need-based, or a combination thereof;

18 (3) Income from postsecondary educational work-study programs,
19 whether federally funded, funded by a postsecondary educational
20 institution, or funded from any other source;

21 (4) Assets in or income from an account under a qualified program as
22 provided in section 77-1402;

23 (5) Income received for participation in grant-funded research on
24 the impact that income has on the development of children in low-income
25 families, except that such exclusion of income must not exceed four
26 thousand dollars per year for a maximum of eight years and such exclusion
27 shall only be made if the exclusion is permissible under federal law for
28 each program referenced in this section. No such exclusion shall be made
29 for such income on or after December 31, 2026;~~and~~

30 (6) Income from any tax credits received pursuant to the School
31 Readiness Tax Credit Act; and -

1 (7) Income from any child support as described in section 43-512.07.
2 Sec. 4. Section 68-1713, Reissue Revised Statutes of Nebraska, is
3 amended to read:
4 68-1713 (1) The Department of Health and Human Services shall
5 implement the following policies:
6 (a) Permit Work Experience in Private for-Profit Enterprises;
7 (b) Permit Job Search;
8 (c) Permit Employment to be Considered a Program Component;
9 (d) Make Sanctions More Stringent to Emphasize Participant
10 Obligations;
11 (e) Alternative Hearing Process;
12 (f) Permit Adults in Two-Parent Households to Participate in
13 Activities Based on Their Self-Sufficiency Needs;
14 (g) Eliminate Exemptions for Individuals with Children Between the
15 Ages of 12 Weeks and Age Six;
16 (h) Providing Poor Working Families with Transitional Child Care to
17 Ease the Transition from Welfare to Self-Sufficiency;
18 (i) Provide Transitional Health Care for 12 Months After Termination
19 of ADC if funding for such transitional medical assistance is available
20 under Title XIX of the federal Social Security Act, as amended, as
21 described in section 68-906;
22 (j) Require Adults to Ensure that Children in the Family Unit Attend
23 School;
24 (k) Encourage Minor Parents to Live with Their Parents;
25 (l) Establish a Resource Limit of \$4,000 for a single individual and
26 \$6,000 for two or more individuals for ADC;
27 (m) Exclude the Value of One Vehicle Per Family When Determining ADC
28 Eligibility;
29 (n) Exclude the Cash Value of Life Insurance Policies in Calculating
30 Resources for ADC;
31 (o) Establish the Supplemental Nutrition Assistance Program as a

1 Continuous Benefit with Eligibility Reevaluated with Yearly
2 Redeterminations;

3 (p) Establish a Budget the Gap Methodology Whereby Countable Earned
4 Income is Subtracted from the Standard of the Need and Payment is Based
5 on the Difference or Maximum Payment Level, Whichever is Less. That this
6 Gap be Established at a Level that Encourages Work but at Least at a
7 Level that Ensures that Those Currently Eligible for ADC do not Lose
8 Eligibility Because of the Adoption of this Methodology;

9 (q) Adopt an Earned Income Disregard described in section 68-1726 in
10 the ADC Program, One Hundred Dollars in the Related Medical Assistance
11 Program, and Income and Assets Described in section 68-1201;

12 (r) Disregard Financial Assistance Described in section 68-1201 and
13 Other Financial Assistance Intended for Books, Tuition, or Other Self-
14 Sufficiency Related Use;

15 (s) Culture: Eliminate the 100-Hour Rule, The Quarter of Work
16 Requirement, and The 30-Day Unemployed/Underemployed Period for ADC-UP
17 Eligibility;

18 (t) Make ADC a Time-Limited Program;~~and~~

19 (u) Adopt an Unearned Income Disregard described in section 68-1201
20 in the ADC Program, the Supplemental Nutrition Assistance Program, and
21 the Child Care Subsidy Program established pursuant to section 68-1202;
22 and -

23 (v) Adopt a child support disregard described pursuant to section
24 43-512.07.

25 (2) The Department of Health and Human Services shall (a) apply for
26 a waiver to allow for a sliding-fee schedule for the population served by
27 the caretaker relative program or (b) pursue other public or private
28 mechanisms, to provide for transitional health care benefits to
29 individuals and families who do not qualify for cash assistance. It is
30 the intent of the Legislature that transitional health care coverage be
31 made available on a sliding-scale basis to individuals and families with

1 incomes up to one hundred eighty-five percent of the federal poverty
2 level if other health care coverage is not available.

3 Sec. 5. Original sections 43-512, 43-512.07, and 68-1713, Reissue
4 Revised Statutes of Nebraska, and section 68-1201, Revised Statutes
5 Cumulative Supplement, 2022, are repealed.