

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 774

Introduced by Wightman, 36; Ashford, 20.

Read first time January 09, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to infants; to amend section 43-512.15, Revised
2 Statutes Supplement, 2007; to change provisions relating
3 to filing for modification of child support orders;
4 to provide an operative date; to repeal the original
5 section; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-512.15, Revised Statutes
2 Supplement, 2007, is amended to read:

3 43-512.15 (1) The county attorney or authorized attorney,
4 upon referral from the Department of Health and Human Services,
5 shall file a complaint to modify a child support order unless the
6 attorney determines in the exercise of independent professional
7 judgment that:

8 (a) The variation from the Supreme Court child support
9 guidelines pursuant to section 42-364.16 is based on material
10 misrepresentation of fact concerning any financial information
11 submitted to the attorney;

12 (b) The variation from the guidelines is due to a
13 voluntary reduction in net monthly income. For purposes of this
14 section, a person who has been incarcerated for a period of one
15 year or more in a county or city jail or a federal or state
16 correctional facility shall be considered to have an involuntary
17 reduction of income unless (i) the incarceration is a result of
18 a conviction for criminal nonsupport pursuant to section 28-706
19 or a conviction for a violation of any federal law or law of
20 another state substantially similar to section 28-706 or (ii)
21 the incarcerated individual has a documented record of willfully
22 failing or neglecting to provide proper support which he or
23 she knew or reasonably should have known he or she was legally
24 obligated to provide when he or she had sufficient resources to
25 provide such support; or

1 (c) When the amount of the order is considered with all
2 the other undisputed facts in the case, no variation from the
3 criteria set forth in subdivisions (1) and (2) of section 43-512.12
4 exists.

5 (2) The department, a county attorney, or an authorized
6 attorney shall not in any case be responsible for reviewing or
7 filing an application to modify child support for individuals
8 incarcerated as described in subdivision (1)(b) of this section.

9 ~~(2)~~ (3) The proceedings to modify a child support order
10 shall comply with section 42-364, and the county attorney or
11 authorized attorney shall represent the state in the proceedings.

12 ~~(3)~~ (4) After a complaint to modify a child support order
13 is filed, any party may choose to be represented personally by
14 private counsel. Any party who retains private counsel shall so
15 notify the county attorney or authorized attorney in writing.

16 Sec. 2. This act becomes operative on July 1, 2008.

17 Sec. 3. Original section 43-512.15, Revised Statutes
18 Supplement, 2007, is repealed.

19 Sec. 4. Since an emergency exists, this act takes effect
20 when passed and approved according to law.