

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 23

Introduced by Wayne, 13.

Read first time January 05, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to paternity; to amend section 43-1401,
2 Reissue Revised Statutes of Nebraska, and section 43-1411, Revised
3 Statutes Cumulative Supplement, 2022; to define and redefine terms;
4 to change provisions relating to interventions in paternity actions;
5 to harmonize provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-1401, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 43-1401 For purposes of sections 43-1401 to 43-1418:

4 (1) Except as provided in subsection (3) of section 43-1411, child
5 means ~~Child shall mean~~ a child under the age of eighteen years born out
6 of wedlock;

7 (2) Child born out of wedlock means ~~shall mean~~ a child whose parents
8 were not married to each other at the time of ~~its~~ birth, except that a
9 child shall not be considered as born out of wedlock if the ~~its~~ parents
10 were married at the time of the child's ~~its~~ conception but divorced at
11 the time of ~~its~~ birth. The definition of legitimacy or illegitimacy for
12 other purposes shall not be affected by ~~the provisions of such~~ sections
13 43-1401 to 43-1418; and

14 (3) Support includes ~~shall include~~ reasonable education.

15 Sec. 2. Section 43-1411, Revised Statutes Cumulative Supplement,
16 2022, is amended to read:

17 43-1411 (1) A civil proceeding to establish the paternity of a child
18 may be instituted, in the court of the district where the child is
19 domiciled or found or, for cases under the Uniform Interstate Family
20 Support Act, where the alleged father is domiciled, by:

21 (a) The mother or the alleged father of such child, either during
22 pregnancy or within four years after the child's birth, unless:

23 (i) A valid consent or relinquishment has been made pursuant to
24 sections 43-104.08 to 43-104.24 or section 43-105 for purposes of
25 adoption; or

26 (ii) A county court or separate juvenile court has jurisdiction over
27 the custody of the child or jurisdiction over an adoption matter with
28 respect to such child pursuant to sections 43-101 to 43-116; or

29 (b) The guardian or next friend of such child or the state, either
30 during pregnancy or within eighteen years after the child's birth.

31 (2) Summons shall issue and be served as in other civil proceedings,

1 except that such summons may be directed to the sheriff of any county in
2 the state and may be served in any county.

3 (3)(a) (3) Notwithstanding any other provision of law, a person
4 claiming to be the biological father of a child over which the juvenile
5 court already has jurisdiction may file a complaint to intervene in such
6 juvenile proceeding to institute an action to establish the paternity of
7 the child. The complaint to intervene shall be accompanied by an
8 affidavit under oath that the intervenor ~~affiant~~ believes he is the
9 biological father of the juvenile. No filing fee shall be charged for
10 filing the complaint and affidavit.

11 (b) Upon filing of the complaint and affidavit, the juvenile court
12 ~~may shall~~ enter an order pursuant to section 43-1414 to require genetic
13 testing and to require the juvenile to be made available for genetic
14 testing. The costs of genetic testing shall be paid by the intervenor,
15 the county, or the state at the discretion of the juvenile court.

16 (c) This subsection does not authorize intervention by a person
17 whose parental rights to such child have been terminated by the order of
18 any court of competent jurisdiction.

19 (d) In determining whether to order genetic testing or establish
20 paternity pursuant to this subsection, the juvenile court may consider:

21 (i) The child's age;

22 (ii) The relationship between the child and any presumptive parent;

23 (iii) The relationship between the child and any parent whose rights
24 have been established by acknowledgment or court finding;

25 (iv) The relationship between the child and the intervenor;

26 (v) Whether the child could benefit or be harmed by establishing the
27 intervenor's paternity; and

28 (vi) Any other factor the juvenile court, in its discretion, deems
29 relevant.

30 (e) For purposes of this subsection, child means a person under the
31 age of eighteen years, regardless of whether the person was born out of

1 wedlock.

2 Sec. 3. Original section 43-1401, Reissue Revised Statutes of
3 Nebraska, and section 43-1411, Revised Statutes Cumulative Supplement,
4 2022, are repealed.