

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 704

Introduced by McKinney, 11; Spivey, 13.

Read first time January 22, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to child support; to amend section 43-512.13,
2 Reissue Revised Statutes of Nebraska, and section 43-512.12, Revised
3 Statutes Cumulative Supplement, 2024; to change provisions relating
4 to the review and modification of an incarcerated individual's child
5 support order; to harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 43-512.12, Revised Statutes Cumulative
2 Supplement, 2024, is amended to read:

3 43-512.12 (1) Child support orders in cases in which a party has
4 applied for services under Title IV-D of the federal Social Security Act,
5 as amended, shall be reviewed by the Department of Health and Human
6 Services to determine whether to refer such orders to the county attorney
7 or authorized attorney for filing of an application for modification. An
8 order shall be reviewed by the department upon its own initiative or at
9 the request of either parent when such review is required by Title IV-D
10 of the federal Social Security Act, as amended. After review the
11 department shall refer an order to a county attorney or authorized
12 attorney when the verifiable financial information available to the
13 department indicates:

14 (a) The present child support obligation varies from the Supreme
15 Court child support guidelines pursuant to section 42-364.16 by more than
16 the percentage, amount, or other criteria established by Supreme Court
17 rule, and the variation is due to financial circumstances which have
18 lasted at least three months and can reasonably be expected to last for
19 an additional six months; or

20 (b) Health care coverage meeting the requirements of subsection (2)
21 of section 42-369 is available to either party and the children do not
22 have health care coverage other than the medical assistance program under
23 the Medical Assistance Act.

24 Health care coverage cases may be modified within three years of
25 entry of the order.

26 (2) Orders that are not addressed under subsection (1) of this
27 section shall not be reviewed by the department if it has not been three
28 years since the present child support obligation was ordered unless the
29 requesting party demonstrates a substantial change in circumstances that
30 is expected to last for the applicable time period established by
31 subdivision (1)(a) of this section. Such substantial change in

1 circumstances may include, but is not limited to, change in employment,
2 earning capacity, or income or receipt of an ongoing source of income
3 from a pension, gift, lottery winnings, casino winnings, parimutuel
4 winnings, sports wagering winnings, or cash device winnings. An order may
5 be reviewed after one year if the department's determination after the
6 previous review was not to refer to the county attorney or authorized
7 attorney for filing of an application for modification because financial
8 circumstances had not lasted or were not expected to last for the time
9 periods established by subdivision (1)(a) of this section.

10 (3)(a) ~~(3)~~ Notwithstanding the time periods set forth in subdivision
11 (1)(a) of this section, within fifteen business days of learning that a
12 noncustodial parent will be incarcerated for more than one hundred eighty
13 calendar days, the department shall initiate a review of the noncustodial
14 parent's child support order. The the department shall send notice by
15 first-class mail to both parents informing them of such review and
16 require the parties to submit financial information as provided in
17 sections 43-512.14 and 43-512.17 within thirty days after the date of the
18 notice the right to request the state to review and, if appropriate,
19 adjust the order. Such notice shall be sent to the incarcerated parent at
20 the address of the facility at which the parent is incarcerated and to
21 the administrator of such facility as defined in section 47-1003.

22 (b) The department shall, within ninety calendar days after the date
23 the department learned the noncustodial parent was to be incarcerated:

24 (i) Complete such review; and

25 (ii) Notify the parties of its determination pursuant to section
26 43-512.13.

27 **Sec. 2.** Section 43-512.13, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 43-512.13 (1)(a) ~~(1)~~ When review of a child support order pursuant
30 to subsection (1) or (2) of section 43-512.12 has been requested by one
31 of the parents or initiated by the Department of Health and Human

1 Services, the department shall send notice of the pending review to each
2 parent affected by the order at the parent's last-known mailing address
3 thirty days before the review is conducted. Such review shall require the
4 parties to submit financial information as provided in sections 43-512.14
5 and 43-512.17.

6 (b) Except as provided in subsection (2) of this section, after ~~(2)~~
7 ~~After~~ the department completes the review of the child support order in
8 accordance with section 43-512.12, it shall send notice to each parent of
9 the determination to refer or not refer the order to the county attorney
10 or authorized attorney for filing of an application for modification of
11 the order in the district court.

12 (c) Each parent shall be allowed thirty days to submit to the
13 department a written request for a review of such determination. The
14 parent requesting review shall submit the request in writing to the
15 department, stating the reasons for the request and providing written
16 evidence to support the request.

17 (d) The department shall review the available verifiable financial
18 information and make a final determination whether or not to refer the
19 order to the county attorney or authorized attorney for filing of an
20 application for modification of the child support order. Written notice
21 of such final determination shall be sent to each parent affected by the
22 order at the parent's last-known mailing address.

23 (e) A final determination under this subsection shall not be
24 considered a contested case for purposes of the Administrative Procedure
25 Act.

26 (2)(a) If, upon the completion of a review initiated pursuant to
27 subsection (3) of section 43-512.12, the department finds a decrease in
28 the amount of the present child support obligation is not warranted
29 because it does not meet the criteria in subsection (1) or (2) of section
30 43-512.12, the department shall grant the incarcerated parent a hearing
31 to review the department's findings. Such hearing shall be scheduled

1 within thirty days after the completion of the department's review and
2 may be conducted in person or by means of virtual conferencing. The
3 department shall send notice of such hearing by first-class mail to both
4 parents. The notice shall include the following:

5 (i) The department's findings;

6 (ii) Whether the hearing will be conducted in person or virtually;

7 (iii) The date, time, and location of the hearing;

8 (iv) That the parties may submit any additional written evidence to
9 the department at least ten business days prior to the hearing;

10 (v) That the incarcerated parent may waive the hearing and that such
11 request shall be filed at least five business days prior to the hearing
12 date; and

13 (vi) Any other information the department deems necessary.

14 (b) The department shall review all available verifiable financial
15 information and, within thirty days after the hearing, make a final
16 determination whether or not a decrease in the present child support
17 obligation is warranted in accordance with the criteria in subsection (1)
18 and (2) of section 43-512.12, and whether or not to refer the order to
19 the county attorney or authorized attorney. Written notice of such final
20 determination shall be sent to each parent by first-class mail.

21 (c) If the incarcerated parent waives the hearing under this
22 subsection, the department shall make a final determination and send
23 written notice of such final determination to each parent by first-class
24 mail.

25 (d) Notices required to be sent to an incarcerated parent under this
26 section shall be sent to the address of the facility at which the parent
27 is incarcerated and to the administrator of such facility as defined in
28 section 47-1003.

29 (e) A final determination under this subsection shall not be
30 considered a contested case for purposes of the Administrative Procedure
31 Act.

1 **Sec. 3.** Original section 43-512.13, Reissue Revised Statutes of
2 Nebraska, and section 43-512.12, Revised Statutes Cumulative Supplement,
3 2024, are repealed.