

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 720

Introduced by Dover, 19.

Read first time January 18, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to child support; to amend section 42-371,
- 2 Reissue Revised Statutes of Nebraska; to change provisions relating
- 3 to liens arising from child support orders; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-371, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 42-371 Under the Uniform Interstate Family Support Act and sections
4 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and 43-1401 to 43-1418:

5 (1)(a) Except as provided in subdivision (1)(b) of this section, all
6 ~~(1)~~ All judgments and orders for payment of money shall be liens, as in
7 other actions, upon real property and any personal property registered
8 with any county office and may be enforced or collected by execution and
9 the means authorized for collection of money judgments. †

10 (b) A judgment or order for payment of child support or spousal
11 support which is current and not delinquent or in arrears creates no lien
12 upon the real or personal property of the judgment debtor.

13 (c) For purposes of this section, a current certified copy of
14 support order payment history from the Title IV-D Division of the
15 Department of Health and Human Services setting forth evidence that all
16 support payments are current is prima facie evidence that such payments
17 are in fact current and is valid for thirty days after the date of
18 certification;

19 (2) The judgment creditor may execute a partial or total release of
20 the judgment or a document subordinating the lien of the judgment to any
21 other lien, generally or on specific real or personal property.

22 Release of a judgment for child support or spousal support or
23 subordination of a lien of a judgment for child support or spousal
24 support may, if all such payments are current and not delinquent or in
25 arrears, be released or subordinated by a release or subordination
26 document executed by the judgment creditor, and such document shall be
27 sufficient to remove or subordinate the lien. A properly executed,
28 notarized release or subordination document explicitly reciting that all
29 child support payments or spousal support payments are current is prima
30 facie evidence that such payments are in fact current. For purposes of
31 this section, any delinquency or arrearage of support payments shall be

1 determined as provided in subsection (2) of section 42-358.02;

2 (3) If a judgment creditor refuses to execute a release of the
3 judgment or subordination of a lien as provided in subdivision (2) of
4 this section or the support payments are not current, the person desiring
5 such release or subordination may file an application for the relief
6 desired in the court which rendered the original judgment. A copy of the
7 application and a notice of hearing shall be served on the judgment
8 creditor either personally or by registered or certified mail no later
9 than ten days before the date of hearing. If the court finds that the
10 release or subordination is not requested for the purpose of avoiding
11 payment and that the release or subordination will not unduly reduce the
12 security, the court may issue an order releasing real or personal
13 property from the judgment lien or issue an order subordinating the
14 judgment lien. As a condition for such release or subordination, the
15 court may require the posting of a bond with the clerk in an amount fixed
16 by the court, guaranteeing payment of the judgment. If the court orders a
17 release or subordination, the court may order a judgment creditor who,
18 without a good faith reason, refused to execute a release or
19 subordination to pay the judgment debtor's court costs and attorney's
20 fees involved with the application brought under this subdivision. A
21 showing that all support payments are current shall be evidence that the
22 judgment creditor did not have a good faith reason to refuse to execute
23 such release or subordination. For purposes of this section, a current
24 certified copy of support order payment history from the Title IV-D
25 Division of the Department of Health and Human Services setting forth
26 evidence that all support payments are current is prima facie evidence
27 that such payments are in fact current and is valid for thirty days after
28 the date of certification;

29 (4) Full faith and credit shall be accorded to a lien arising by
30 operation of law against real and personal property for amounts overdue
31 relating to a support order owed by a judgment debtor or obligor who

1 resides or owns property in this state when another state agency, party,
2 or other entity seeking to enforce such lien complies with the procedural
3 rules relating to the filing of the lien in this state. The state agency,
4 party, or other entity seeking to enforce such lien shall send a
5 certified copy of the support order with all modifications, the notice of
6 lien prescribed by 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E), and the
7 appropriate fee to the clerk of the district court in the jurisdiction
8 within this state in which the lien is sought. Upon receiving the
9 appropriate documents and fee, the clerk of the district court shall
10 accept the documents filed and such acceptance shall constitute entry of
11 the foreign support order for purposes of this section only. Entry of a
12 lien arising in another state pursuant to this section shall result in
13 such lien being afforded the same treatment as liens arising in this
14 state. The filing process required by this section shall not be construed
15 as requiring an application, complaint, answer, and hearing as might be
16 required for the filing or registration of foreign judgments under the
17 Nebraska Uniform Enforcement of Foreign Judgments Act or the Uniform
18 Interstate Family Support Act;

19 (5) Support order judgments shall cease to be liens on real or
20 registered personal property ten years from the date (a) the youngest
21 child becomes of age or dies or (b) the most recent execution was issued
22 to collect the judgment, whichever is later, and such lien shall not be
23 reinstated;

24 (6) Alimony and property settlement award judgments, if not covered
25 by subdivision (5) of this section, shall cease to be a lien on real or
26 registered personal property ten years from the date (a) the judgment was
27 entered, (b) the most recent payment was made, or (c) the most recent
28 execution was issued to collect the judgment, whichever is latest, and
29 such lien shall not be reinstated;

30 (7) The court may in any case, upon application or its own motion,
31 after notice and hearing, order a person required to make payments to

1 post sufficient security, bond, or other guarantee with the clerk to
2 insure payment of both current and any delinquent amounts. Upon failure
3 to comply with the order, the court may also appoint a receiver to take
4 charge of the debtor's property to insure payment. Any bond, security, or
5 other guarantee paid in cash may, when the court deems it appropriate, be
6 applied either to current payments or to reduce any accumulated
7 arrearage;

8 (8)(a) The lien of a mortgage or deed of trust which secures a loan,
9 the proceeds of which are used to purchase real property, and (b) any
10 lien given priority pursuant to a subordination document under this
11 section shall attach prior to any lien authorized by this section. Any
12 mortgage or deed of trust which secures the refinancing, renewal, or
13 extension of a real property purchase money mortgage or deed of trust
14 shall have the same lien priority with respect to any lien authorized by
15 this section as the original real property purchase money mortgage or
16 deed of trust to the extent that the amount of the loan refinanced,
17 renewed, or extended does not exceed the amount used to pay the principal
18 and interest on the existing real property purchase money mortgage or
19 deed of trust, plus the costs of the refinancing, renewal, or extension;
20 and

21 (9) Any lien authorized by this section against personal property
22 registered with any county consisting of a motor vehicle or mobile home
23 shall attach upon notation of the lien against the motor vehicle or
24 mobile home certificate of title and shall have its priority established
25 pursuant to the terms of section 60-164 or a subordination document
26 executed under this section.

27 Sec. 2. Original section 42-371, Reissue Revised Statutes of
28 Nebraska, is repealed.