

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 526

Introduced by Morfeld, 46.

Read first time January 18, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to civil procedure; to amend sections 25-701,
- 2 25-1558, and 25-1577, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to debtor's rights, garnishment,
- 4 attachment, and other debt collection procedures; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-701, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-701 (1) A party asserting a claim to relief as an original
4 claim, counterclaim, cross-claim, or third-party claim may join, either
5 as independent or as alternate claims, as many claims, legal or
6 equitable, as the party has against an opposing party.

7 (2) In cases filed pursuant to section 25-205, joinder of claims
8 against the same party is impermissible when an assignee is joining
9 claims from different original creditors and the claims are unrelated to
10 the same transaction.

11 Sec. 2. Section 25-1558, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 25-1558 (1) Except as provided in subsection (2) of this section,
14 the maximum part of the aggregate disposable earnings of an individual
15 for any workweek which is subject to garnishment shall not exceed the
16 lesser of the following amounts:

17 (a) Fifteen ~~Twenty-five~~ percent of his or her disposable earnings
18 for that week;

19 (b) The amount by which his or her disposable earnings for that week
20 exceed thirty times the ~~federal~~ minimum hourly wage prescribed by section
21 48-1203 ~~29 U.S.C. 206(a)(1)~~ in effect at the time earnings are payable;
22 or

23 (c) Twenty-five ~~Fifteen~~ percent of his or her disposable earnings
24 for that week, if the individual is not a head of a family, as
25 established by the judgment creditor by sworn affidavit.

26 (2) The restrictions of subsection (1) of this section shall not
27 apply in the case of:

28 (a) Any order of any court for the support of any persons;

29 (b) Any order of any court of bankruptcy under Chapter XIII of the
30 Bankruptcy Act; or

31 (c) Any debt due for any state or federal tax.

1 (3) No court shall make, execute, or enforce any order or process in
2 violation of this section. The exemptions allowed in this section shall
3 be granted to any person so entitled without any further proceedings.

4 (4) For the purposes of this section:

5 (a) Earnings shall mean compensation paid or payable by an employer
6 to an employee for personal services, whether denominated as wages,
7 salary, commission, bonus, or otherwise, and includes periodic payments
8 pursuant to a pension or retirement program;

9 (b) Disposable earnings shall mean that part of the earnings of any
10 individual remaining after the deduction from those earnings of any
11 amounts required by law to be withheld;

12 (c) Garnishment shall mean any legal or equitable procedure through
13 which the earnings of any individual are required to be withheld for
14 payment of any debt; and

15 (d) Head of a family shall mean an individual who actually supports
16 and maintains one or more individuals who are closely connected with him
17 or her by blood relationship, relationship by marriage, by adoption, or
18 by guardianship, and whose right to exercise family control and provide
19 for the dependent individuals is based upon some moral or legal
20 obligation.

21 (5) Every assignment, sale, transfer, pledge, or mortgage of the
22 wages or salary of an individual which is exempted by this section, to
23 the extent of the exemption provided by this section, shall be void and
24 unenforceable by any process of law.

25 (6) No employer shall discharge any employee by reason of the fact
26 that his or her earnings have been subjected to garnishment for any one
27 indebtedness.

28 (7) In the case of earnings for any pay period other than a week,
29 the Commissioner of Labor shall by regulation prescribe a multiple of the
30 state ~~federal~~ minimum hourly wage equivalent in effect to that set forth
31 in this section.

1 (8) No judgment creditor shall garnish wages in the same month that
2 proceeds from a deposit in a financial institution have also been
3 garnished from the same judgment debtor.

4 Sec. 3. Deposits of a judgment debtor in any financial institution,
5 as that term is defined in section 25-1056, of up to and including two
6 thousand dollars in total for all deposits, shall be exempt from
7 attachment, garnishment, or other legal or equitable process and from all
8 claims of judgment creditors.

9 Sec. 4. Section 25-1577, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 25-1577 (1) Except as provided in subsection (2) of this section,
12 if If any person, party, or witness disobeys disobey an order of the
13 judge or referee, duly served, such person, party, or witness may be
14 punished by the judge as for contempt, and if a party, he or she shall be
15 committed to the jail of the county wherein the proceedings are pending
16 until he or she complies shall comply with such order; or, in case he or
17 she has, since the service of such order upon him or her, rendered it
18 impossible for him or her to comply therewith, until he or she has
19 restored to the opposite party what such party has lost by such
20 disobedience, or until discharged by due course of law.

21 (2) No imprisonment related to the debt collection process shall be
22 allowed unless, after a hearing, a judgment debtor is found to be in
23 willful contempt of court. A judgment debtor shall not be committed to
24 jail for failing to appear pursuant to section 25-1565 unless, after
25 service of an order to appear and show cause as to why the judgment
26 debtor should not be found in contempt for failing to appear, the
27 judgment debtor is found to be in willful contempt.

28 (3) An indigent judgment debtor shall be entitled to representation
29 by court-appointed counsel for contempt proceedings under this section if
30 imprisonment is a possibility.

31 Sec. 5. Original sections 25-701, 25-1558, and 25-1577, Reissue

1 Revised Statutes of Nebraska, are repealed.