

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIRST LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1037**

Introduced by Fulton, 29.

Read first time January 21, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to support enforcement; to amend sections  
2 43-3314 and 43-3333, Reissue Revised Statutes of  
3 Nebraska; to change provisions relating to delinquent  
4 support and arrearages; and to repeal the original  
5 sections.

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

1           Section 1. Section 43-3314, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-3314 (1) When the department or a county attorney  
4 or authorized attorney has made reasonable efforts to verify and  
5 has reason to believe that a license holder in a case receiving  
6 services under Title IV-D of the Social Security Act, as amended,  
7 (a) is delinquent on a support order in an amount equal to the  
8 support due and payable for more than a ~~three-month~~ one-month  
9 period of time, (b) is not in compliance with a payment plan  
10 for amounts due as determined by a county attorney, an authorized  
11 attorney, or the department for such past-due support, or (c) is  
12 not in compliance with a payment plan for amounts due under a  
13 support order pursuant to a court order for such past-due support,  
14 and therefor determines to certify the license holder to the  
15 appropriate licensing authority, the department, county attorney,  
16 or authorized attorney shall send written notice to the license  
17 holder by certified mail to the last-known address of the license  
18 holder or to the last-known address of the license holder available  
19 to the court pursuant to section 42-364.13. For purposes of this  
20 section, reasonable efforts to verify means reviewing the case  
21 file and having written or oral communication with the clerk of  
22 the court of competent jurisdiction and with the license holder.  
23 Reasonable efforts to verify may also include written or oral  
24 communication with custodial parents.

25           (2) The notice shall specify:

1           (a) That the Department of Health and Human Services,  
2 county attorney, or authorized attorney intends to certify the  
3 license holder to the Department of Motor Vehicles and to relevant  
4 licensing authorities pursuant to subsection (3) of section 43-3318  
5 as a license holder described in subsection (1) of this section;

6           (b) The court or agency of competent jurisdiction which  
7 issued the support order or in which the support order is  
8 registered;

9           (c) That an enforcement action for a support order will  
10 incorporate any amount delinquent under the support order which may  
11 accrue in the future;

12           (d) That a license holder who is in violation of a  
13 support order can come into compliance by:

14           (i) Paying current support if a current support  
15 obligation exists; and

16           (ii) Paying all past-due support or, if unable to pay all  
17 past-due support and if a payment plan for such past-due support  
18 has not been determined, by making payments in accordance with  
19 a payment plan determined by the county attorney, the authorized  
20 attorney, or the Department of Health and Human Services for such  
21 past-due support; and

22           (e) That within thirty days after issuance of the notice,  
23 the license holder may either:

24           (i) Request administrative review in the manner specified  
25 in the notice to contest a mistake of fact. Mistake of fact means

1 an error in the identity of the license holder or an error in the  
2 determination of whether the license holder is a license holder  
3 described in subsection (1) of this section; or

4 (ii) Seek judicial review by filing a petition in the  
5 court of competent jurisdiction of the county where the support  
6 order was issued or registered or, in the case of a foreign  
7 support order not registered in Nebraska, the court of competent  
8 jurisdiction of the county where the child resides if the child  
9 resides in Nebraska or the court of competent jurisdiction of the  
10 county where the license holder resides if the child does not  
11 reside in Nebraska.

12 Sec. 2. Section 43-3333, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 43-3333 (1) In a case which is receiving services under  
15 Title IV-D of the federal Social Security Act, as amended, when  
16 the department has made reasonable efforts to verify and has  
17 reason to believe payment on a support order is in arrears in  
18 an amount equal to the support due and payable for more than a  
19 ~~three-month~~ one-month period of time or upon the request of the  
20 state agency of another state which administers Title IV-D of the  
21 federal Social Security Act, and therefor determines to seize an  
22 obligor's property, the department shall send written notice to  
23 the obligor by first-class mail to the last-known address of the  
24 obligor or to the last-known address of the obligor available  
25 to the court pursuant to section 42-364.13. For purposes of this

1 section, reasonable efforts to verify means reviewing the case file  
2 and having written or oral communication with the clerk of the  
3 district court.

4 (2) The notice of arrearage shall:

5 (a) Specify the court or agency which issued the support  
6 order;

7 (b) Specify the arrearage under the support order which  
8 the obligor owes as of the date of the notice or other date  
9 certain;

10 (c) Specify that any enforcement action will incorporate  
11 any arrearage which may accrue in the future;

12 (d) State clearly, "Your property may be seized without  
13 further notice if you do not respond or clear up the arrearage";  
14 and

15 (e) Specify that within twenty days after the notice is  
16 mailed, the obligor may request, in writing, a hearing to contest  
17 a mistake of fact. For purposes of this section, mistake of fact  
18 means an error in the amount of the arrearage or an error in the  
19 identity of the obligor.

20 (3) If the obligor files a written request for a hearing  
21 based upon a mistake of fact within twenty days after the notice is  
22 mailed, the department shall provide an opportunity for a hearing  
23 and shall stay enforcement action under sections 43-3333 to 43-3337  
24 until the administrative appeal process is completed.

25 Sec. 3. Original sections 43-3314 and 43-3333, Reissue

LB 1037

LB 1037

1 Revised Statutes of Nebraska, are repealed.