

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1137

Introduced by Lathrop, 12.

Read first time January 22, 2020

Committee: Judiciary

1 A BILL FOR AN ACT relating to civil procedure; to provide for
2 certification of a class of plaintiffs and removal for adjudication
3 in district court of certain contested cases under the
4 Administrative Procedure Act; to provide a waiver of sovereign
5 immunity; to define terms; and to provide a duty of the Revisor of
6 Statutes.

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

1 Section 1. (1)(a) A petitioner in a contested case under the
2 Administrative Procedure Act involving a determination by the Department
3 of Health and Human Services regarding public assistance may file an
4 action in the district court of the county where the contested case is
5 pending to request certification of a class of numerous persons seeking
6 review of a common question. Such action may be filed at any time prior
7 to the final decision issued by the department. Except as otherwise
8 provided in this section, such action shall be under the same terms as
9 provided in section 25-319.

10 (b) The district court shall have the power to certify a class of
11 such persons aggrieved by common department actions. If the court grants
12 certification, all pending substantive or procedural issues shall be
13 removed from the department for adjudication before the district court.
14 The district court, as a court of general jurisdiction, shall retain all
15 inherent authority to adjudicate such matters as an original action in
16 the district court and also any additional authority that a hearing
17 officer, the department, or any other department official would possess
18 in a contested case.

19 (2) The request for class certification shall set forth:

20 (a) The name and mailing address of the named petitioner;

21 (b) The common legal questions at issue;

22 (c) A definition of all persons in the purported class impacted by
23 the department's actions within two years prior to the filing of the
24 action, regardless of whether such persons have exhausted their
25 administrative remedies;

26 (d) The reasons that certification of a class is appropriate and
27 necessary; and

28 (e) Copies of all documents filed with the hearing officer in the
29 underlying contested case.

30 (3) The filing of an action under this section shall stay
31 enforcement of a decision of the hearing officer unless and until the

1 district court declines to adjudicate the matter as a class action.

2 (4) This section shall be liberally construed to provide for class
3 certification when it will serve the public interest.

4 (5) This section waives the state's sovereign immunity for actions
5 certified as a class pursuant to this section.

6 (6) The Supreme Court may promulgate rules as necessary to carry out
7 this section.

8 (7) For purposes of this section:

9 (a) Contested case has the same meaning as in section 84-901;

10 (b) Hearing officer has the same meaning as in section 84-901; and

11 (c) Public assistance includes, but is not limited to, aid to
12 families with dependent children, emergency assistance, assistance to the
13 aged, blind, or disabled, medically handicapped children's services,
14 commodities, the Supplemental Nutrition Assistance Program, medical
15 assistance, child care, the low-income home energy assistance program,
16 and developmental disability waiver coverage under the medical assistance
17 program.

18 Sec. 2. The Revisor of Statutes shall assign section 1 of this act
19 to Chapter 25, article 3.