2012

STATE OF NEBRASKA

STATUTES RELATING TO LICENSE SUSPENSION ACT

Department of Health and Human Services
Division of Public Health
Licensure Unit

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SUPPORT ENFORCEMENT

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STATUTES PERTAINING TO SUPPORT ENFORCEMENT

(a) LICENSE SUSPENSION ACT

43-3301. Act, how cited. Sections 43-3301 to 43-3326 shall be known and may be cited as the License Suspension Act.
Source: Laws 1997, LB 752, § 1; Laws 1999, LB 594, § 27. Operative date May 26, 1999.

43-3302. Legislative intent. It is the intent of the Legislature to encourage the use of all proven techniques for the enforcement of support orders. The Legislature finds that the potential suspension of a professional, occupational, or recreational license or a motor vehicle operator's license for failure to pay child, spousal, and medical support is an effective technique for the enforcement of support orders, particularly for non-wage-earning and self-employed license holders who are not in compliance with support orders. It is the intent of the Legislature to encourage license holders to comply with their legal obligations and to add to the tools available for the enforcement of support orders. Therefor, the Department of Health and Human Services, county attorneys, authorized attorneys, or courts of competent jurisdiction are authorized to initiate actions under the License Suspension Act against individuals who are not in compliance with support orders.
Source: Laws 1997, LB 752, §2. Effective date September 13, 1997.

43-3303. Definitions, where found. For purposes of the License Suspension Act, the definitions found in sections 43-3304 to 43-3313 apply.
Source: Laws 1997, LB 752, § 3; Laws 1999, LB 594, § 28. Operative date May 26, 1999.

43-3304. Authorized attorney, defined. Authorized attorney has the same meaning as found in section 43-1704.
Source: Laws 1997, LB 752, §4. Effective date September 13, 1997.

43-3305. Child support, defined. Child support has the same meaning as found in section 43-1705.
Source: Laws 1997, LB 752, §5. Effective date September 13, 1997.

43-3305.01. Department, defined. Department means the Department of Health and Human Services.
Source: Laws 1999, LB 594, § 29; Laws 2007, LB296, § 153. Operative date July 1, 2007.

43-3306. Medical support, defined. Medical support has the same meaning as found in section 43-512.
Source: Laws 1997, LB 752, §6. Effective date September 13, 1997.

43-3307. Operator's license, defined. Operator's license has the same meaning as found in section 60-474 and includes a commercial driver's license as defined in section 60-464 and a restricted commercial driver's license as defined in section 60-476.03 except as specifically provided otherwise in section 43-3318.
Source: Laws 1997, LB 752, §7. Effective date September 13, 1997.

43-3308. Professional or occupational license, defined. Professional or occupational license means a license, certificate, registration, permit, or other similar document evidencing admission to or granting authority to engage in a profession or occupation in the State of Nebraska.
Source: Laws 1997, LB 752, §8. Effective date September 13, 1997.

43-3309. Recreational license, defined. Recreational license means a license, certificate, registration, permit, tag, sticker, or other similar document or identifier evidencing permission to hunt, fish, or trap for furs in the State of Nebraska.
Source: Laws 1997, LB 752, §9. Effective date September 13, 1997.

43-3310. Relevant licensing authority, defined. Relevant licensing authority means a board, bureau, commission, committee, department, political subdivision, or other public or private entity that is authorized under the laws of the State of Nebraska to grant, issue, or renew a professional, occupational, or recreational license.
Source: Laws 1997, LB 752, §10. Effective date September 13, 1997.

43-3311. Spousal support, defined. Spousal support has the same meaning as found in section 43-1715.
Source: Laws 1997, LB 752, §11. Effective date September 13, 1997.

43-3312. Support order, defined. Support order has the same meaning as found in section 43-1717.
Source: Laws 1997, LB 752, §12. Effective date September 13, 1997.

43-3313. Support, defined. Support in the definitions of child support, medical support, and spousal support means providing necessary shelter, food, clothing, care, medical support, medical attention, education expenses, or funeral expenses or any other reasonable and necessary expense.
Source: Laws 1997, LB 752, § 13; Laws 2003, LB 245, § 4. Operative date January 1, 2004.

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

(2) The notice shall specify:

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

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

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

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

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

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

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

(i) Request administrative review in the manner specified in the notice to contest a mistake of fact. Mistake of fact means an error in the identity of the license holder or an error in the determination of whether the license holder is a license holder described in subsection (1) of this section; or

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

Source: Laws 1997, LB 752, § 14; Laws 1999, LB 594, § 30; Laws 2007, LB296, § 154. Operative date July 1, 2007.

43-3315. License holder; judicial review; notice; effect. If the license holder makes a timely request for judicial review after receiving a notice under section 43-3314, the court of competent jurisdiction as specified in subdivision (2) (e) (ii) of section 43-3314 shall have jurisdiction to hear the license holder's petition. Upon the timely notification by the license holder to the Department of Health and Human Services that the license holder is seeking judicial review as provided under this section, the Department of Health and Human Services shall stay the action to certify the license holder to the Department of Motor Vehicles and relevant licensing authorities as a license holder described in subsection (1) of section 43-3314 pending the outcome of judicial review.
Source: Laws 1997, LB 752, §15. Effective date September 13, 1997.

43-3316. License holder; administrative review; procedure. If the license holder makes a timely request for administrative review after receiving a notice under section 43-3314, the Department of Health and Human Services shall provide an opportunity for a hearing in accordance with the Administrative Procedure Act. The issues that may be determined at the hearing are limited to whether there has been an error in the identity of the license holder or in the determination of whether the license holder is a license holder described in subsection (1)

of section 43-3314. The license holder may raise additional issues, including the reasonableness of a payment plan for a support order, to be preserved for appeal to the district court as provided under the Administrative Procedure Act. The Department of Health and Human Services shall stay the action to certify the license holder to the Department of Motor Vehicles and relevant licensing authorities as a license holder described in subsection (1) of section 43-3314 pending the outcome of the hearing. The Department of Health and Human Services shall notify the license holder of its decision.

Source: Laws 1997, LB 752, §16. Effective date September 13, 1997.

43-3317. License holder; appeal of administrative decision; procedure. Any person aggrieved by a decision of the department pursuant to section 43-3316 may, upon exhaustion of the procedures for administrative review provided under the Administrative Procedure Act, seek judicial review within ten days after the issuance of notice of the department's decision pursuant to section 43-3316. Notwithstanding subdivision (2)(a) of section 84-917, proceedings for review shall be instituted by filing a petition in the court of competent jurisdiction of the county where the support order was issued or registered or, in the case of a foreign support order not registered in Nebraska, the court of competent jurisdiction as specified in subdivision (2)(e)(ii) of section 43-3314.

Source: Laws 1997, LB 752, § 17; Laws 2007, LB296, § 155. Operative date July 1, 2007.

43-3318. Certification to relevant licensing authorities; when; procedure; effect. (1) The Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction may certify in writing to the Department of Motor Vehicles, relevant licensing authorities, and, if the license holder is a member of the Nebraska State Bar Association, the Counsel for Discipline of the Nebraska Supreme Court, that a license holder is a license holder described in subsection (1) of section 43-3314 if:

(a) The license holder does not timely request either administrative review or judicial review upon issuance of a notice under subsection (2) of section 43-3314, is still a license holder described in subsection (1) of section 43-3314 thirty-one days after issuance of the notice, and does not obtain a written confirmation of compliance from the Department of Health and Human Services, county attorney, or authorized attorney pursuant to section 43-3320 within thirty-one days after issuance of the notice;

(b) The Department of Health and Human Services issues a decision after a hearing that finds the license holder is a license holder described in subsection (1) of section 43-3314, the license holder is still a license holder described in such subsection thirty-one days after issuance of that decision, and the license holder does not seek judicial review of the decision within the ten-day appeal period provided in section 43-3317; or

(c) The court of competent jurisdiction enters a judgment on a petition for judicial review, initiated under either section 43-3315 or 43-3317, that finds the license holder is a license holder described in subsection (1) of section 43-3314.

(2) The court of competent jurisdiction, after providing appropriate notice, may certify a license holder to the Department of Motor Vehicles and relevant licensing authorities if a license holder has failed to comply with subpoenas or warrants relating to paternity or child support proceedings.

(3) If the Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction determines to certify a license holder to the appropriate licensing authority, then the department, county attorney, authorized attorney, or court of competent jurisdiction shall certify a license holder in the following order and in compliance with the following restrictions:

(a) To the Department of Motor Vehicles to suspend the license holder's operator's license, except the Department of Motor Vehicles shall not suspend the license holder's commercial driver's license or restricted commercial driver's license. If a license holder possesses a commercial driver's license or restricted commercial driver's license, the Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction shall certify such license holder pursuant to subdivision (b) of this subsection. If the license holder fails to come into compliance with the support order as provided in section 43-3314 or with subpoenas and warrants relating to paternity or child support proceedings within ten working days after the date on which the license holder's operator's license suspension becomes effective, then the department, county attorney, authorized attorney, or court of competent jurisdiction may certify the license holder pursuant to subdivision (b) of this subsection without further notice;

(b) To the relevant licensing authority to suspend the license holder's recreational license once the Game and Parks Commission has operative the electronic or other automated retrieval system necessary to suspend recreational licenses. If the license holder does not have a recreational license and until the Game and Parks Commission has operative the electronic or other automated retrieval system necessary to suspend recreational licenses, the department, county attorney, authorized attorney, or court of competent jurisdiction may certify the license holder pursuant to subdivision (c) of this subsection. If the license holder fails to come into compliance with the support order as provided in section 43-3314 or with subpoenas and warrants relating to paternity or child support proceedings within ten working days after the date on which the license holder's recreational license suspension becomes effective, the department, county attorney, authorized attorney, or court of competent jurisdiction may certify the license holder pursuant to subdivision (c) of this subsection without further notice; and

(c) To the relevant licensing authority to suspend the license holder's professional license, occupational license, commercial driver's license, or restricted commercial driver's license.

(4) If the Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction certifies the license holder to the Department of Motor Vehicles, the Department of Motor Vehicles shall suspend the operator's license of the license holder ten working days after the date of certification. The Department of Motor Vehicles shall without undue delay notify the license holder by certified mail that the license holder's operator's license will be suspended and the date the suspension becomes effective. No person shall be issued an operator's license by the State of Nebraska if at the time of application for a license the person's operator's license is suspended under this section. Any person whose operator's license has been suspended shall return his or her license to the Department of Motor Vehicles within five working days after receiving the notice of the suspension. If any person fails to return the license, the Department of Motor Vehicles shall direct any peace officer to secure possession of the operator's license and to return it to the Department of Motor Vehicles. The peace officer who is directed to secure possession of the license shall make every reasonable effort to secure the license and return it to the Department of Motor Vehicles or shall show good cause why the license cannot be returned. An appeal of the suspension of an operator's license under this section shall be pursuant to section 60-4,105. A license holder whose operator's license has been suspended under this section may apply for an employment driving permit as provided by sections 60-4,129 and 60-4,130, except that the license holder is not required to fulfill the driver improvement or driver education and training course requirements of subsection (2) of section 60-4,130.

(5) Except as provided in subsection (6) of this section as it pertains to a license holder who is a member of the Nebraska State Bar Association, if the Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction certifies the license holder to a relevant licensing authority, the relevant licensing authority, notwithstanding any other provision of law, shall suspend the license holder's professional, occupational, or recreational license and the license holder's right to renew the professional, occupational, or recreational license ten working days after the date of certification. The relevant licensing authority shall without undue delay notify the license holder by certified mail that the license holder's professional, occupational, or recreational license will be suspended and the date the suspension becomes effective.

(6) If the department, county attorney, authorized attorney, or court of competent jurisdiction certifies a license holder who is a member of the Nebraska State Bar Association to the Counsel for Discipline of the Nebraska Supreme Court, the Nebraska Supreme Court may suspend the license holder's license to practice law. It is the intent of the Legislature to encourage all license holders to comply with their child support obligations. Therefor, the Legislature hereby requests that the Nebraska Supreme Court adopt amendments to the rules regulating attorneys, if necessary, which provide for the discipline of an attorney who is delinquent in the payment of or fails to pay his or her child support obligation.

(7) The Department of Health and Human Services, or court of competent jurisdiction when appropriate, shall send by certified mail to the license holder at the license holder's last-known address a copy of any certification filed with the Department of Motor Vehicles or a relevant licensing authority and a notice which states that the license holder's operator's license will be suspended ten working days after the date of certification and that the suspension of a professional, occupational, or recreational license pursuant to subsection (5) of this section becomes effective ten working days after the date of certification.

Source: Laws 1997, LB 752, § 18; Laws 1999, LB 594, § 31; Laws 2004, LB 1207, § 43; Laws 2007, LB296, § 156. Operative date July 1, 2007.

43-3319. License holder; motion or application to modify support order; effect. If the license holder files a motion or application to modify a support order, the department, county attorney, or authorized attorney, upon notification by the license holder, shall stay the action to certify the license holder under section 43-3318 until disposition of the motion or application by the court or agency of competent jurisdiction. If the license holder requests review of the support order under section 43-512.12, the department shall stay the action to certify the license holder pending final disposition of the review and modification process.

Source: Laws 1997, LB 752, § 19; Laws 2007, LB296, § 157. Operative date July 1, 2007.

43-3320. License holder; written confirmation of compliance. (1) When a license holder comes into compliance with the support order as provided in section 43-3314, the department, county attorney, or authorized attorney shall provide the license holder with written confirmation that the license holder is in compliance.

(2) When a license holder comes into compliance with subpoenas and warrants relating to paternity or child support proceedings, the court of competent jurisdiction shall provide the license holder with written confirmation that the license holder is in compliance.

Source: Laws 1997, LB 752, § 20; Laws 2007, LB296, § 158. Operative date July 1, 2007.

43-3321. License holder; written confirmation of compliance; reinstatement or renewal of license; fee.

(1) Upon presentation by the license holder of a written confirmation of compliance to the Department of Motor Vehicles, the license holder may have his or her operator's license reinstated upon payment of a reinstatement fee of fifty dollars. The Department of Motor Vehicles shall remit the fee to the State Treasurer for credit to the Department of Motor Vehicles Cash Fund.

(2) Upon presentation by the license holder of a written confirmation of compliance to the relevant licensing authority and upon payment of any fee which may be prescribed by the relevant licensing authority, the license holder may have his or her professional, occupational, or recreational license reinstated or renewed. The professional, occupational, or recreational license may be automatically reinstated or renewed pursuant to the relevant licensing authority's least restrictive reinstatement or renewal procedure applicable to license suspension, probation, or other licensing authority disciplinary action, except that the license holder must meet any other customary or standard requirement for reinstatement or renewal as required by the relevant licensing authority.

Source: Laws 1997, LB 752, § 21; Laws 2001, LB 38, § 3. Operative date January 1, 2002.

43-3322. Erroneous suspension. If a motor vehicle operator's license or a professional, occupational, or recreational license is found to have been suspended erroneously, the license holder shall have his or her license reinstated or renewed without the payment of any reinstatement or renewal fee, but if a fee was paid because of the error, such fee shall be returned to the license holder by the relevant licensing authority.

Source: Laws 1997, LB 752, §22. Effective date September 13, 1997.

43-3323. Rules and regulations. The department shall adopt and promulgate rules and regulations to carry out the License Suspension Act.

Source: Laws 1997, LB 752, § 23; Laws 2007, LB296, § 159. Operative date July 1, 2007.

43-3324. Information to Department of Health and Human Services; agreements authorized. The Department of Motor Vehicles and relevant licensing authorities shall provide to the Department of Health and Human Services specified information about license holders in a manner agreed to by the Department of Health and Human Services and the Department of Motor Vehicles or the relevant licensing authority annually on a date determined by the Department of Health and Human Services. The information shall include:

(1**)** The name of the license holder;

(2**)** The license holder's address of record;

(3**)** The license holder's federal employer identification number or social security number, if available and permissible under law, and the license holder's date of birth;

(4**)** The type of license held;

(5**)** The effective date of the license or renewal;

(6**)** The expiration date of the license; and

(7**)** The status of the license as active or inactive.

The Department of Health and Human Services may enter into agreements with the Director of Motor Vehicles and relevant licensing authorities to carry out this section. Such agreements with the Game and Parks Commission with regard to recreational license holders shall only be made when electronic or other automated retrieval systems are available for such information.

Source: Laws 1997, LB 752, §24. Effective date September 13, 1997.

43-3325. Act; how construed. Nothing in the License Suspension Act shall prevent the department, the county attorney, the authorized attorney, or the court of competent jurisdiction from taking other enforcement actions.

Source: Laws 1997, LB 752, § 25; Laws 2007, LB296, § 160. Operative date July 1, 2007.

43-3326. Reports to Legislature. The department shall issue electronically a report to the Legislature on or before January 31 of each year which discloses the number of professional, occupational, or recreational licenses which were suspended and the number which were erroneously suspended and restored as a result of the License Suspension Act for the prior year. The Director of Motor Vehicles shall issue electronically a report to the Legislature on or before January 31 of each year which discloses the number of operators' licenses which were suspended and the number which were erroneously suspended and restored as a result of the License Suspension Act for the prior year.

Source: Laws 1997, LB 752, § 26; Laws 1999, LB 594, § 32; Laws 2007, LB296, § 161; Laws 2012, LB782, § 49. Operative Date: July 19, 2012.

(b) ACCESS TO INFORMATION

43-3327. Support orders and genetic testing; access to information without court or administrative order; fee authorized; confidentiality; violation; penalty. (1) For purposes of this section:

(a) Authorized attorney has the same meaning as in section 43-1704;

(b) Department means the Department of Health and Human Services;

(c) Genetic testing means genetic testing ordered pursuant to section 43-1414; and

(d) Support order has the same meaning as in section 43-1717.

(2) Notwithstanding any other provision of law regarding the confidentiality of records, the department, a county attorney, or an authorized attorney may, without obtaining a court or administrative order:

(a) Compel by subpoena (i) information relevant to establishing, modifying, or enforcing a support order and (ii) genetic testing of an individual relevant to establishing, modifying, or enforcing a support order. Such information includes, but is not limited to, relevant financial records and other relevant records including the name, address, and listing of financial assets or liabilities from public or private entities. If a person fails or refuses to obey the subpoena, the department, a county attorney, or an authorized attorney may apply to a judge of the court of competent jurisdiction for an order directing such person to comply with the subpoena. Failure to obey such court order may be punished by the court as contempt of court; and

(b) Obtain access to information contained in the records, including automated data bases, of any state or local agency which is relevant to establishing, modifying, or enforcing a support order or to ordering genetic testing. Such records include, but are not limited to, vital records, state and local tax and revenue records, titles to real and personal property, employment security records, records of correctional institutions, and records concerning the ownership and control of business entities.

(3) The department shall subpoena or access information as provided in subsection (2) of this section at the request of a state agency of another state which administers Title IV-D of the federal Social Security Act for such information. The department may charge a fee for this service which does not exceed the cost of providing the service.

(4) All information acquired pursuant to this section is confidential and cannot be disclosed or released except to other agencies which have a legitimate and official interest in the information for carrying out the purposes of this section. A person who receives such information, subject to the provisions of this subsection on confidentiality and restrictions on disclosure or release, is immune from any civil or criminal liability. A person who cooperates in good faith by providing information or records under this section is immune from any civil or criminal liability. Any person acquiring information pursuant to this section who discloses or releases such information in violation of this subsection is guilty of a Class III misdemeanor. The disclosure or release of such information regarding an individual is a separate offense from information disclosed or released regarding any other individual.

Source: Laws 1997, LB 752, § 27; Laws 1999, LB 594, § 33; Laws 2007, LB296, § 162. Operative date July 1, 2007.

(c) BANK MATCH SYSTEM

43-3328. Legislative intent. It is the intent of the Legislature to encourage the use of all proven techniques for the enforcement of support orders. It is also the intent of the Legislature to effectuate reasonable welfare reform and to comply with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The Legislature finds and declares that a bank match system and the potential for an administrative attachment of personal assets of an obligor held by a payor or held by a financial institution is an effective tool for the collection of unpaid support from obligors who are not in compliance with support orders. It is the intent of the Legislature to encourage obligors to comply with their legal obligations and to add to the tools available for the enforcement of support orders by authorizing the Department of Health and Human Services and county attorneys or authorized attorneys to initiate bank match actions and administrative attachments as described in sections 43-3328 to 43-3339.

Source: Laws 1997, LB 752, §28. Effective date September 13, 1997.

43-3329. Terms, defined. For purposes of sections 43-3328 to 43-3339, the following definitions apply:

(1) Account means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account;

(2) Authorized attorney has the same meaning as found in section 43-1704;

(3) Child support has the same meaning as found in section 43-1705;

(4) Department means the Department of Health and Human Services and if the department designates, includes a county attorney or authorized attorney;

(5) Financial institution means every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state chartered credit unions, benefit associations, insurance

companies, safe deposit companies, any money-market mutual fund as defined in section 851(a) of the Internal Revenue Code that seeks to maintain a constant net asset value of one dollar in accordance with 17 C.F.R. 270.2a-7, any broker, brokerage firm, trust company, or unit investment trust, or any other similar entity doing business or authorized to do business in the State of Nebraska;

(6) Match means a comparison by automated or other means by name and social security number of a list of obligors provided to a financial institution by the department and a list of depositors of any financial institution;

(7) Medical support has the same meaning as found in section 43-512;

(8) Obligor means a person who owes a duty of support pursuant to a support order;

(9) Payor includes a person, partnership, limited partnership, limited liability partnership, limited liability company, corporation, or other entity doing business or authorized to do business in the State of Nebraska, including a financial institution, or a department or an agency of state, county, or city government;

(10) Spousal support has the same meaning as found in section 43-1715;

(11) Support in the definitions of child support, medical support, and spousal support means providing necessary shelter, food, clothing, care, medical support, medical attention, education expenses, or funeral expenses or any other reasonable and necessary expense; and

(12) Support order has the same meaning as found in section 43-1717.

Source: Laws 1997, LB 752, § 29; Laws 2003, LB 245, § 5; Laws 2007, LB296, § 163. Operative date July 1, 2007.

43-3330. Listing of obligors; financial institution; duties; confidentiality. A financial institution shall receive from the department a listing of obligors to be used in matches within the financial institution's system. The listing from the department shall include the name and social security number or taxpayer identification number of each obligor to be used in matches within the financial institution's system. The financial institution shall receive the listing within thirty days after the end of each calendar quarter subsequent to January 1, 1998, and shall match the listing to its records of accounts held in one or more individuals' names which are open accounts and such accounts closed within the preceding calendar quarter within thirty days after receiving the listing and provide the department with a match listing of all matches made within five working days of the match. The match listing from the financial institution shall include the name, address, and social security number or taxpayer identification number of each obligor matched and the balance of each account. The financial institution shall also provide the names and addresses of all other owners of accounts in the match listing as reflected on a signature card or other similar document on file with the financial institution. The financial institution shall submit all match listings by disk, magnetic tape, or other medium approved by the department. Nothing in this section shall (1) require a financial institution to disclose the account number assigned to the account of any individual or (2) serve to encumber the ownership interest of any person in or impact any right of setoff against an account. The financial institution shall maintain the confidentiality of all records supplied and shall use the records only for the purposes of this section. To maintain the confidentiality of the listing and match listing, the department shall implement appropriate security provisions for the listing and match listing which are as stringent as those established under the Federal Tax Information Security Guidelines for federal, state, and local agencies.

Source: Laws 1997, LB 752, § 30; Laws 2010, LB712, § 39. Operative Date: July 15, 2010.

43-3331. Financial institution; disclosure or release of information; immunity. A financial institution is not liable under any state or local law to any individual or to the department for disclosure or release of information to the department for the purpose of establishing, modifying, or enforcing a support order or for any other action taken in good faith to comply with the requirements of section 43-3330. Sections 43-3328 to 43-3339 shall not be construed to make a financial institution responsible or liable to any extent for assuring that the department maintains the confidentiality of information disclosed under section 43-3330.

Source: Laws 1997, LB 752, §31. Effective date September 13, 1997.

43-3332. Financial institution; fees authorized. A financial institution may charge a reasonable fee, not to exceed actual cost, to be paid by the department for the service of reporting matches as required by section 43-3330 and may charge a fee, not to exceed actual cost, to be paid by the department for the necessary upgrades to an existing system that are directly related to compliance with section 43-3330 and that have been approved by the department.

Source: Laws 1997, LB 752, §32. Effective date September 13, 1997.

43-3333. Seizure of obligor's property; notice of arrearage; contents; appeal. (1) In a case which is receiving services under Title IV-D of the federal Social Security Act, as amended, when the department has made reasonable efforts to verify and has reason to believe payment on a support order is in arrears in an amount equal to the support due and payable for more than a three-month period of time or upon the request of the state agency of another state which administers Title IV-D of the federal Social Security Act, and therefor determines to seize an obligor's property,

the department shall send written notice to the obligor by first-class mail to the last-known address of the obligor or to the last-known address of the obligor available to the court pursuant to section 42-364.13. For purposes of this section, reasonable efforts to verify means reviewing the case file and having written or oral communication with the clerk of the district court.

(2) The notice of arrearage shall:

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

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

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

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

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

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

Source: Laws 1997, LB 752, § 33; Laws 2007, LB296, § 164. Operative date July 1, 2007.

43-3334. Order to withhold and deliver; when; contents; payor; duties; fee. (1) The department may send a payor an order to withhold and deliver specifically identified property of any kind due, owing, or belonging to an obligor if (a) the department has reason to and does believe that there is in the possession of the payor property which is due, owing, or belonging to an obligor, (b) payment on a support order is in arrears, (c) the department sent a notice of arrearage to the obligor pursuant to section 43-3333 at least thirty days prior to sending the notice to withhold and deliver, and (d) no hearing was requested or after a hearing the department determined that an arrearage did exist or that there was no mistake of fact.

(2) The order to withhold and deliver shall state that notice has been mailed to the obligor in accordance with the requirements of subdivision (1)(c) of this section and that the obligor has not requested a hearing or, after a hearing, the department has determined that an arrearage exists or that there was no mistake of fact, the amount in arrears, the social security number of the obligor, the court or agency to which the property is to be delivered, instructions for transmitting the property, and information regarding the requirements found in subsection (3) of this section. The order shall include written questions regarding the property of every description, including whether or not any other person has an ownership interest in the property, and the credits of the obligor which are in the possession or under the control of the payor at the time the order is received.

(3) Upon receipt of an order to withhold and deliver, a payor shall:

(a) Hold property that is subject to the order and that is in the possession or under the control of the payor at the time the order to withhold and deliver was received, to the extent of the amount of the arrearage stated in the order until the payor receives further notice from the department;

(b) Answer all of the questions asked of the payor in the order, supply the name and address of any person that has an ownership interest in the property sought to be reached, and return such information to the department within five business days after receiving the order; and

(c) Upon further notice from the department, deliver any property which may be subject to the order to the court or agency designated in the order or release such property or portion thereof.

(4) An order to withhold and deliver shall have the same priority as a garnishment for the support of a person pursuant to subsection (4) of section 25-1056.

(5) If the payor is a financial institution, such financial institution may deduct and retain a processing fee from any amounts turned over to the department under this section. The processing fee shall not exceed ten dollars for each account turned over to the department.

Source: Laws 1997, LB 752, § 34; Laws 2004, LB 999, § 30; Laws 2007, LB296, § 165. Operative date July 1, 2007.

43-3335. Order to withhold and deliver; notice to obligor; contents; appeal. (1) Within five days after the issuance of the order to withhold and deliver, the department shall send written notice to the obligor by first-class mail. The notice shall be dated and shall specify the payor to which an order to withhold and deliver was sent, the amount due, the steps to be followed to release the property, the time period in which to respond to such notice, and the court or agency of competent jurisdiction which issued the support order.

(2) The obligor may request a hearing to contest a mistake of fact by sending a written request to the department within seven days after the date of the notice. The department shall provide an opportunity for a hearing within ten days after receipt of the written request and shall stay enforcement actions under sections 43-3333 to 43-3337 until the administrative appeal process is completed.

Source: Laws 1997, LB 752, § 35; Laws 2007, LB296, § 166. Operative date July 1, 2007.

43-3336. Order to withhold and deliver; co-owner; notice; contents; appeal. (1) If, after receiving the information from the payor in subdivision (3)(b) of section 43-3334, the department has knowledge that another person has an ownership interest or may claim an ownership interest in any property sought to be reached which is in the possession or under the control of the payor as the property of the obligor, the department shall send written notice to such person or persons by certified mail, return receipt requested. The notice shall be dated and shall specify why the order to withhold and deliver was issued, the payor to which the order to withhold and deliver was sent, and that the person has a right to request a hearing by the department within fifteen days after the date of the notice to establish that the property or any part thereof is not the property of the obligor. The department shall provide an opportunity for hearing to a person making such request and shall stay enforcement actions under sections 43-3333 to 43-3337 until the administrative appeal process is completed.

(2) Any person other than the obligor claiming an ownership interest in any property sought to be reached which is in the possession or under the control of the payor as the property of the obligor has a right to timely request a hearing by the department to establish that the property or any part thereof is not the property of the obligor. The department shall provide an opportunity for hearing to a person making such request and shall stay enforcement actions under sections 43-3333 to 43-3337 until the administrative appeal process is completed. If the property or any part of the property which is in the possession or under the control of the payor is not the property of the obligor, the payor is discharged as to that property which is not the obligor's.

Source: Laws 1997, LB 752, § 36; Laws 2007, LB296, § 167. Operative date July 1, 2007.

43-3337. Order to withhold and deliver; payor's liability. (1**)** If a payor fails or refuses to withhold or deliver property subject to an order to withhold and deliver, judgment may be entered by the court which issued or registered the support order for the amount of the arrearages stated in the order or the amount of the property or credits of the obligor in the possession or under the control of the payor at the time the order to withhold and deliver was received, whichever is less, unless the payor can show cause as to why the property was not withheld or delivered.

(2**)** Compliance with the order by the payor operates as a discharge of the payor's liability to the obligor or beneficiary as to the portion of the obligor's property withheld or delivered.

(3**)** A payor is not liable to any individual or to the department for responding to an order to withhold and deliver or for holding, refusing to release to the obligor, or delivering any property of an obligor in compliance with an order to withhold and deliver or for any other action taken in good faith to comply with the requirements of sections 43-3328 to 43-3339 regardless of whether such action was specifically authorized or described by such sections.

Source: Laws 1997, LB 752, §37. Effective date September 13, 1997.

43-3338. Judicial review. Any person aggrieved by a determination of the department under sections 43-3328 to 43-3339, upon exhaustion of the procedures for administrative review provided in such sections, or the department may seek judicial review in the court in which the support order was issued or registered.

Source: Laws 1997, LB 752, § 38; Laws 2007, LB296, § 168. Operative date July 1, 2007.

43-3339. Rules and regulations. The department shall adopt and promulgate rules and regulations to carry out sections 43-3328 to 43-3339.

Source: Laws 1997, LB 752, §39. Effective date September 13, 1997.

(d) SOCIAL SECURITY NUMBERS

43-3340. Social security numbers; recorded; when; Department of Health and Human Services; duties. (1**)** To aid child support enforcement pursuant to federal law, 42 U.S.C. 666(a), the social security numbers of the following individuals shall be recorded on the application, in the court records, or on the death certificate, as appropriate:

(a**)** Any applicant for a professional license, commercial driver's license, occupational license, or marriage license;

(b**)** Any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment; and

(c**)** Any individual who has died.

(2**)** The Department of Health and Human Services shall adopt and promulgate rules and regulations which provide a procedure for the collection of the social security numbers recorded pursuant to this section and for the use of such numbers in the child support enforcement as provided in 42 U.S.C. 666(a).

Source: Laws 1997, LB 752, §48. Effective date September 13, 1997.

(e) STATE DISBURSEMENT UNIT

43-3341. Terms, defined. For purposes of sections 43-3341 to 43-3347:

(1) Business day means a day on which state offices are open for regular business;

(2) Child support has the same meaning as found in section 43-1705;

(3) Department means the Department of Health and Human Services;

(4) Medical support has the same meaning as found in section 43-512;

(5) Obligee means a person to whom a duty of support is owed pursuant to a support order;

(6) Obligor means a person who owes a duty of support pursuant to a support order;

(7) Normal business hours means 7 a.m. to 6 p.m. Central Time;

(8) Spousal support has the same meaning as found in section 43-1715;

(9) State Disbursement Unit means the unit established in section 43-3342;

(10) Support has the same meaning as found in section 43-3313;

(11) Support order has the same meaning as found in section 43-1717; and

(12) Title IV-D Division means the Title IV-D Division of the department which is the single organizational unit of the state that has the responsibility for administering or supervising the administration of the state plan under Title IV-D of the federal Social Security Act.

Source: Laws 1999, LB 637, § 1; Laws 2000, LB 972, § 28. Operative date April 14, 2000.

43-3342. State Disbursement Unit; created. There is hereby created a State Disbursement Unit for the statewide collection and disbursement of support order payments. The State Disbursement Unit shall be administered and operated directly by a public or private entity or state officer as designated by the Title IV-D Division. The designation shall be subject to confirmation by a majority of the members of the Legislature. The entity or officer as designated shall be directly responsible to the Title IV-D Division.

In employing initial staff for the unit, a hiring preference shall be given to employees of the clerks of the district court.

Source: Laws 1999, LB 637, § 2; Laws 2000, LB 972, § 29. Operative date April 14, 2000.

43-3342.01. State Disbursement Unit; Title IV-D Division; duties; records. (1) The responsibilities of the State Disbursement Unit shall include the following:

(a) Receipt of payments, except payments made pursuant to subdivisions (1)(a) and (1)(b) of section 42-369, and disbursements of such payments to obligees, the department, and the agencies of other states;

(b) Accurate identification of payments;

(c) Prompt disbursement of the obligee's share of any payments;

(d) Furnishing to any obligor or obligee, upon request, timely information on the current status of support order payments; and

(e) One location for employers to send income withholding payments.

(2) The Title IV-D Division shall maintain records of payments for all cases in which support order payments are made to the central office of the State Disbursement Unit using the statewide automated data processing and retrieval system. The Title IV-D Division shall not be required to convert and maintain records of support order payments kept by the clerk of the district court before the date that the State Disbursement Unit becomes operative or records of payments received by the clerk pursuant to section 42-369.

(3) A true copy of the record of payments, balances, and arrearages maintained by the Title IV-D Division is prima facie evidence, without further proof or foundation, of the balance of any amount of support order payments that are in arrears and of all payments made and disbursed to the person or agency to whom the support order payment is to be made. Such evidence shall be considered to be satisfactorily authenticated, shall be admitted as prima facie evidence of the transactions shown in such evidence, and is rebuttable only by a specific evidentiary showing to the contrary.

(4) A copy of support payment records maintained by the Title IV-D Division shall be considered to be a true copy of the record when certified by a person designated by the division pursuant to the rules and regulations adopted and promulgated pursuant to this section.

Source: Laws 2000, LB 972, § 1; Laws 2002, LB 1062, § 3; Laws 2007, LB554, § 44. Operative date January 1, 2008.

43-3342.02. State Disbursement Unit; timely disbursement required. (1) Except as provided in subsection (2) of this section, the State Disbursement Unit shall disburse all support order payments received within two business days after receipt.

(2) The State Disbursement Unit may delay the disbursement of collections toward arrearages until the resolution of any timely appeal with respect to such arrearages.

Source: Laws 2000, LB 972, § 2. Note: For the operative date for this section, see section 43-3342.07.

43-3342.03. State Disbursement Unit; support order collection; fees authorized; State Disbursement Unit Cash Fund; created; use; investment; electronic remittance by employers. (1) All support orders shall direct payment of support as provided in section 42-369. Any support order issued prior to the date that the State Disbursement Unit becomes operative for which the payment is to be made to the clerk of the district court shall be deemed to require payment to the State Disbursement Unit after a notice to the obligor is issued.

(2) The unit may collect a fee equal to the actual cost of processing any payments for returned check charges or charges for electronic payments not accepted, except that the fee shall not exceed thirty dollars. After a payor has originated two payments resulting in returned check charges or charges for electronic payments not accepted within a period of two years, the unit may issue a notice to the originator that, for the following year, any payment shall be required to be paid by money order, cashier's check, or certified check. After a payor has originated two payments resulting in returned check charges or electronic payments not accepted, the unit may issue a notice to the originator that all future payments shall be paid by money order, cashier's check, or certified check, except that pursuant to rule and regulation and at least two years after such issuance of notice, the unit may waive for good cause shown such requirements for methods of payment. The fees shall be remitted to the State Treasurer for credit to the State Disbursement Unit Cash Fund, which is hereby created, which funds shall be used to offset the expenses incurred in the collection of child support bad debt. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) The State Disbursement Unit shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical for the collection and disbursement of support payments.

(4) Employers with more than fifty employees who have an employee with a child support order shall remit child support payments electronically.

Source: Laws 2000, LB 972, § 3; Laws 2002, LB 1062, § 4; Laws 2005, LB 116, § 21; Laws 2008, LB620, § 1. Effective date July 18, 2008.

43-3342.04. Title IV-D Division; establish Customer Service Unit; duties; report. (1) The Title IV-D Division shall establish a Customer Service Unit. In hiring the initial staff for the unit, a hiring preference shall be given to employees of the clerks of the district court. The duties of the Customer Service Unit include, but are not limited to:

(a) Providing account information as well as addressing inquiries made by customers of the State Disbursement Unit; and

(b) Administering two statewide toll-free telephone systems, one for use by employers and one for use by all other customers, to provide responses to inquiries regarding income withholding, the collection and disbursement of support order payments made to the State Disbursement Unit, and other child support enforcement issues, including establishing a call center with sufficient telephone lines, a voice response unit, and adequate personnel available during normal business hours to ensure that responses to inquiries are made by the division's personnel or the division's designee.

(2) The physical location of the Customer Service Unit shall be in Nebraska and shall result in the hiring of a number of new employees or contractor's staff equal to at least one-fourth of one percent of the labor force in the county or counties in which the Customer Service Unit is located. Customer service staff responsible for providing account information related to the State Disbursement Unit may be located at the same location as the State Disbursement Unit.

(3) The department shall issue a report to the Governor and to the Legislature on or before January 31 of each year which discloses information relating to the operation of the State Disbursement Unit for the preceding calendar year including, but not limited to:

(a) The number of transactions processed by the State Disbursement Unit;

(b) The dollar amount collected by the State Disbursement Unit;

(c) The dollar amount disbursed by the State Disbursement Unit;

(d) The percentage of identifiable collections disbursed within two business days;

(e) The percentage of identifiable collections that are matched to the correct case;

(f) The number and dollar amount of insufficient funds checks received by the State Disbursement Unit;

(g) The number and dollar amount of insufficient funds checks received by the State Disbursement Unit for which restitution is subsequently made to the State Disbursement Unit;

(h) The number of incoming telephone calls processed through the Customer Service Unit;

(i) The average length of incoming calls from employers;

(j) The average length of incoming calls from all other customers;

(k) The percentage of incoming calls resulting in abandonment by the customer;

(l) The percentage of incoming calls resulting in a customer receiving a busy signal;

(m) The average holding time for all incoming calls; and

(n) The percentage of calls handled by employees of the Customer Service Unit that are resolved within twenty-four hours.

(4) The report issued to the Legislature pursuant to subsection (3) of this section shall be issued electronically.

Source: Laws 2000, LB 972, § 4; Laws 2007, LB296, § 169; Laws 2012, LB782, § 50. Operative Date: July 19, 2012.

43-3342.05. Child Support Advisory Commission; created; members; terms; expenses; personnel; duties; Supreme Court; duties. (1) The Child Support Advisory Commission is created. Commission members shall include:

(a) Two district court judges whose jurisdiction includes domestic relations, to be appointed by the Supreme Court;

(b) One member of the Nebraska State Bar Association who practices primarily in the area of domestic relations;

(c) One county attorney who works in child support;

(d) One professional who works in the field of economics or mathematics or another field of expertise relevant to child support;

(e) One custodial parent who has a court order to receive child support;

(f) One noncustodial parent who is under a support order to pay child support;

(g) The chairperson of the Judiciary Committee of the Legislature, who shall serve as the chairperson of the commission;

(h) The chairperson of the Health and Human Services Committee of the Legislature;

(i) The State Treasurer or his or her designee;

(j) The State Court Administrator or his or her designee; and

(k) The director of the Title IV-D Division or his or her designee.

(2)(a) The Supreme Court shall notify the Executive Board of the Legislative Council of its intent to review the child support guidelines pursuant to section 42-364.16. Following such notification, the chairperson of the commission shall call a meeting of the commission.

(b) Each time the commission meets pursuant to subdivision (2)(a) of this section, the Supreme Court shall make appointments to fill the membership under subdivision (1)(a) of this section and the chairperson of the Executive Board shall make appointments to fill each membership under subdivisions (1)(b) through (f) of this section. The terms of these members shall expire after the commission has fulfilled its duties pursuant to subsection (3) of this section.

(c) Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

(d) If determined to be necessary to perform the duties of the commission, the commission may hire, contract, or otherwise obtain the services of consultants, researchers, aides, and other necessary support staff with prior approval of the chairperson of the Executive Board.

(e) For administrative purposes, the commission shall be managed and administered by the Legislative Council.

(3) The duties of the commission shall include, but are not limited to:

(a) Reviewing the child support guidelines adopted by the Supreme Court and recommending, if appropriate, any changes to the guidelines. Whenever practicable, the commission shall base its recommendations on economic data and statistics collected in the State of Nebraska. In reviewing the guidelines and formulating recommendations, the commission may conduct public hearings around the state; and

(b) Presenting reports, as deemed necessary, of its activities and recommendations to the Supreme Court and the Executive Board.

(4) The Supreme Court shall review the commission's reports. The Supreme Court may amend the child support guidelines established pursuant to section 42-364.16 based upon the commission's recommendations.

Source: Laws 2000, LB 972, § 5; Laws 2002, LB 1062, § 5; Laws 2006, LB 1113, § 43. Effective date July 14, 2006.

43-3342.06. Restriction on advertising and promotional materials. Any advertising or promotional materials relating to the State Disbursement Unit may include references to a public office but shall not refer to an officeholder by name.

Source: Laws 2000, LB 972, § 6. Operative date April 14, 2000.

43-3342.07 and 43-3343. Repealed. Laws 2004, LB 1005, §143.

43-3344. Support order payments; considered abandoned property; when; disposition. Support order payments placed in the Title IV-D Support Payment Distributive Fund shall be exempt from the Uniform Disposition of Unclaimed Property Act. If, within three years after the date of receipt, the Title IV-D Division is unable to disburse support order payments collected pursuant to law and also unable to return the collected payments to the noncustodial

parent, such payments shall be considered abandoned property. This abandoned property shall be used by the state for child support enforcement as provided by the rules and regulations of the division.

Source: Laws 1999, LB 637, § 4; Laws 2000, LB 972, § 30; Laws 2004, LB 1005, § 5. Operative date July 16, 2004.

43-3345. District courts; compliance required. For purposes of the establishment, modification, or enforcement of a support order, all district courts shall utilize the Title IV-D Division's statewide automated data processing and information retrieval system. The Title IV-D Division may withhold IV-D funds from any county whose district court is not in compliance with this section.

Source: Laws 1999, LB 637, § 5. Effective date May 27, 1999.

43-3346. Title IV-D Support Payment Distributive Fund; created; use. The Title IV-D Support Payment Distributive Fund is created. The fund shall be used for the collection and disbursement of support payments as provided in sections 43-3341 to 43-3347.

Source: Laws 1999, LB 637, § 6; Laws 2000, LB 972, § 31; Laws 2004, LB 1005, § 6. Operative date July 16, 2004.

43-3347. Rules and regulations. The Title IV-D Division shall adopt and promulgate rules and regulations to carry out sections 43-3341 to 43-3347.

Source: Laws 1999, LB 637, § 7; Laws 2000, LB 972, § 32. Operative date April 14, 2000.