

AN ACT

ENTITLED, An Act to authorize circuit courts to adjudicate paternity and establish custody in notice of support debt proceedings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 25-7A-5 be amended to read as follows:

25-7A-5. The secretary of social services may initiate an action for support by issuing a notice of a support debt, which shall be served without summons or other pleadings on the alleged responsible parent in the manner provided for service of a summons in a civil action or by certified mail, return receipt requested. The notice, whether based on subrogation power of attorney, assignment of a support obligation established by a court, administrative order or judgment or based on the furnishing of assistance by the Department of Social Services for any dependent child or spouse, or based on the obligation fixed by chapter 25-7, or support due to an obligee or another state who has applied for support enforcement services, shall contain the following statements:

- (1) The name of the dependent child or spouse for whom support is owed;
- (2) The monthly support for which the parent is responsible, including a statement of the debt accrued and accruing, and the monthly payment to be made on the state debt accrued, or due to an obligee or another state who has applied for support enforcement services, as established by:
 - (a) Subrogation to or assignment of a court or administrative order, judgment or decree establishing a set or determinable amount of child or spousal support; or
 - (b) Payment of assistance by the department for a dependent child or spouse where there is no court or administrative order, judgment or decree;
- (3) A statement that if the parent does not request a hearing within ten days from the day of service, the secretary:

- (a) Will request the court enter an order establishing the amount of child support, accrued and accruing, which the parent is responsible for and the amount of the total monthly payment due on the accrued debt to the state, or to an obligee or another state who has applied for support enforcement services, and on the monthly support obligation;
 - (b) May request that the court enter an order for health insurance coverage;
 - (c) May request that the court enter an order for genetic testing costs; and
 - (d) May request that the court enter an order adjudicating paternity and custody of the child.
- (4) A statement that the parent served with a notice of support debt may, within ten days of the day of service of the notice of support debt, submit a written response to the notice objecting to all or any part of the notice and requesting a hearing;
- (5) A statement that an order entered under subdivision (3) of this section, establishing the payment obligation of the parent is subject to collection action, including an order for income withholding under this chapter, levy and execution under the laws of this state or any other collection actions authorized by law;
- (6) A reference to this chapter;
- (7) A statement that an order for support entered under this chapter is filed with the appropriate clerk of courts and is a lien as provided by law;
- (8) A statement that if the parent has any questions he may telephone or visit the nearest department office or consult an attorney;
- (9) A statement that the parent has an obligation to report any change of address or employment to the department; and
- (10) Any other information the secretary finds appropriate.

Section 2. That § 25-7A-7 be amended to read as follows:

25-7A-7. If a parent is served with a notice of support debt under § 25-7A-5 and does not request a hearing within ten days, the secretary of social services shall file, in the office of the appropriate clerk of the circuit court, the notice of support debt, proof of service thereof, and an application for an order for support. The court shall enter an order for support in accordance with the child support guidelines set by statute, establishing the amount of child support, accrued and accruing, for which the parent is responsible and the amount of the total monthly payment due on the accrued debt to the state, or to an obligee or another state who has applied for support enforcement services, and on the monthly support obligation. The court may also enter an order for health insurance coverage, genetic testing costs, adjudicating the paternity of the child, or establishing custody of the child. The secretary shall serve the parent an order by certified mail, return receipt requested, at the parent's last known address, and shall file proof of service.

Section 3. That § 25-7A-8 be amended to read as follows:

25-7A-8. If a person served with a notice of support debt under § 25-7A-5 contests paternity or custody of the child, and the person is presumed to be the parent of the child in accordance with the provisions of chapter 25-8, the secretary shall inform the responding party that an action must be commenced in circuit court in accordance with chapter 25-8 in order to establish that the person is not the father of the child or to establish custody. The notice of support debt, proof of service, and the response shall be filed for the purpose of establishing the support obligation as provided in § 25-7A-6. The establishment and enforcement of the obligation may not be stayed pending the action for paternity or custody determination commenced by the respondent.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1049

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1049
File No. _____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State