

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1094

Introduced by Murman, 38.

Read first time January 21, 2020

Committee:

- 1 A BILL FOR AN ACT relating to child support; to amend section 42-371,
- 2 Reissue Revised Statutes of Nebraska; to change lien provisions on
- 3 support order judgments as prescribed; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-371, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 42-371 Under the Uniform Interstate Family Support Act and sections
4 42-347 to 42-381, 43-290, 43-512 to 43-512.10, and 43-1401 to 43-1418:

5 (1) All judgments and orders for payment of money shall be liens, as
6 in other actions, upon real property and any personal property registered
7 with any county office and may be enforced or collected by execution and
8 the means authorized for collection of money judgments;

9 (2) The judgment creditor may execute a partial or total release of
10 the judgment or a document subordinating the lien of the judgment to any
11 other lien, generally or on specific real or personal property.

12 Release of a judgment for child support or spousal support or
13 subordination of a lien of a judgment for child support or spousal
14 support may, if all such payments are current and not delinquent or in
15 arrears, be released or subordinated by a release or subordination
16 document executed by the judgment creditor, and such document shall be
17 sufficient to remove or subordinate the lien. A properly executed,
18 notarized release or subordination document explicitly reciting that all
19 child support payments or spousal support payments are current is prima
20 facie evidence that such payments are in fact current. For purposes of
21 this section, any delinquency or arrearage of support payments shall be
22 determined as provided in subsection (2) of section 42-358.02;

23 (3) If a judgment creditor refuses to execute a release of the
24 judgment or subordination of a lien as provided in subdivision (2) of
25 this section or the support payments are not current, the person desiring
26 such release or subordination may file an application for the relief
27 desired in the court which rendered the original judgment. A copy of the
28 application and a notice of hearing shall be served on the judgment
29 creditor either personally or by registered or certified mail no later
30 than ten days before the date of hearing. If the court finds that the
31 release or subordination is not requested for the purpose of avoiding

1 payment and that the release or subordination will not unduly reduce the
2 security, the court may issue an order releasing real or personal
3 property from the judgment lien or issue an order subordinating the
4 judgment lien. As a condition for such release or subordination, the
5 court may require the posting of a bond with the clerk in an amount fixed
6 by the court, guaranteeing payment of the judgment. If the court orders a
7 release or subordination, the court may order a judgment creditor who,
8 without a good faith reason, refused to execute a release or
9 subordination to pay the judgment debtor's court costs and attorney's
10 fees involved with the application brought under this subdivision. A
11 showing that all support payments are current shall be evidence that the
12 judgment creditor did not have a good faith reason to refuse to execute
13 such release or subordination. For purposes of this section, a current
14 certified copy of support order payment history from the Title IV-D
15 Division of the Department of Health and Human Services setting forth
16 evidence that all support payments are current is prima facie evidence
17 that such payments are in fact current and is valid for thirty days after
18 the date of certification;

19 (4) Full faith and credit shall be accorded to a lien arising by
20 operation of law against real and personal property for amounts overdue
21 relating to a support order owed by a judgment debtor or obligor who
22 resides or owns property in this state when another state agency, party,
23 or other entity seeking to enforce such lien complies with the procedural
24 rules relating to the filing of the lien in this state. The state agency,
25 party, or other entity seeking to enforce such lien shall send a
26 certified copy of the support order with all modifications, the notice of
27 lien prescribed by 42 U.S.C. 652(a)(11) and 42 U.S.C. 654(9)(E), and the
28 appropriate fee to the clerk of the district court in the jurisdiction
29 within this state in which the lien is sought. Upon receiving the
30 appropriate documents and fee, the clerk of the district court shall
31 accept the documents filed and such acceptance shall constitute entry of

1 the foreign support order for purposes of this section only. Entry of a
2 lien arising in another state pursuant to this section shall result in
3 such lien being afforded the same treatment as liens arising in this
4 state. The filing process required by this section shall not be construed
5 as requiring an application, complaint, answer, and hearing as might be
6 required for the filing or registration of foreign judgments under the
7 Nebraska Uniform Enforcement of Foreign Judgments Act or the Uniform
8 Interstate Family Support Act;

9 (5) Support order judgments shall cease to be liens on real or
10 registered personal property (a) ten years from the date (i) (a) the
11 youngest child reaches the age of majority becomes of age or dies or (ii)
12 (b) the most recent execution was issued to collect the judgment,
13 whichever is later, or (b) when the youngest child reaches the age of
14 majority or dies, and the child support obligation is current as of the
15 date of the child becoming the age of majority or the child's death ~~r~~
16 ~~whichever is later, and such lien shall not be reinstated;~~

17 (6) Alimony and property settlement award judgments, if not covered
18 by subdivision (5) of this section, shall cease to be a lien on real or
19 registered personal property ten years from the date (a) the judgment was
20 entered, (b) the most recent payment was made, or (c) the most recent
21 execution was issued to collect the judgment, whichever is latest, and
22 such lien shall not be reinstated;

23 (7) The court may in any case, upon application or its own motion,
24 after notice and hearing, order a person required to make payments to
25 post sufficient security, bond, or other guarantee with the clerk to
26 insure payment of both current and any delinquent amounts. Upon failure
27 to comply with the order, the court may also appoint a receiver to take
28 charge of the debtor's property to insure payment. Any bond, security, or
29 other guarantee paid in cash may, when the court deems it appropriate, be
30 applied either to current payments or to reduce any accumulated
31 arrearage;

1 (8)(a) The lien of a mortgage or deed of trust which secures a loan,
2 the proceeds of which are used to purchase real property, and (b) any
3 lien given priority pursuant to a subordination document under this
4 section shall attach prior to any lien authorized by this section. Any
5 mortgage or deed of trust which secures the refinancing, renewal, or
6 extension of a real property purchase money mortgage or deed of trust
7 shall have the same lien priority with respect to any lien authorized by
8 this section as the original real property purchase money mortgage or
9 deed of trust to the extent that the amount of the loan refinanced,
10 renewed, or extended does not exceed the amount used to pay the principal
11 and interest on the existing real property purchase money mortgage or
12 deed of trust, plus the costs of the refinancing, renewal, or extension;
13 and

14 (9) Any lien authorized by this section against personal property
15 registered with any county consisting of a motor vehicle or mobile home
16 shall attach upon notation of the lien against the motor vehicle or
17 mobile home certificate of title and shall have its priority established
18 pursuant to the terms of section 60-164 or a subordination document
19 executed under this section.

20 Sec. 2. Original section 42-371, Reissue Revised Statutes of
21 Nebraska, is repealed.