

Sixty-second
Legislative Assembly
of North Dakota

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 35-34 of the North Dakota
2 Century Code, relating to a child support lien registry; to amend and reenact sections
3 35-34-02, 35-34-03, and 35-34-04, subsection 1 of section 35-34-06, and sections 35-34-09
4 and 35-34-10 of the North Dakota Century Code, relating to child support liens; to provide a
5 transition; and to provide an effective date.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 35-34-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **35-34-02. Lien for past-due child support.** When an obligor ~~is listed on the~~
10 ~~arrears registry as defined in section 14-09-09.10~~ owes past-due support, the child support
11 agency may establish a lien on ~~personal~~ property of the obligor as provided in this chapter.
12 Except for liens under section 35-34-05, the amount of a lien under this chapter includes
13 any past-due support that is owed when the lien is perfected and any past-due support that
14 accrues after the lien is perfected.

15 **SECTION 2.** A new section to chapter 35-34 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Child support lien registry.** The child support agency shall create a child support
18 lien registry using an interactive website that is available to the public. The registry shall
19 include a listing of any obligor who owes past due support that is being enforced by the child
20 support enforcement agency and the amount of past due support that is being enforced by
21 the child support enforcement agency. Any real or titled personal property, except the
22 homestead or other property that is exempt under section 28-22-02, of an obligor who is

1 listed on the lien registry or which the obligor thereafter acquires in this state is subject to a
2 lien. A lien under this section is perfected as of the date the lien is first listed on the child
3 support lien registry, but is not effective against a good-faith purchaser of titled personal
4 property unless the lien is recorded on that title. The child support agency must subordinate
5 its lien under this section upon request of a third party if the request is made within thirty
6 days of the date the lien is first listed on the child support lien registry and the third party
7 proves that it attempted to perfect an interest in the property prior to the creation of the child
8 support lien.

9 **SECTION 3. AMENDMENT.** Section 35-34-03 of the North Dakota Century Code is
10 created and enacted as follows:

11 **35-34-03. Vehicle lien.**

- 12 1. In the case of a vehicle, the child support agency may ~~establish a lien by filing~~ file
13 a notice of lien with the director of the department of transportation. The notice
14 must be in a form prescribed by the director and contain a description of the
15 vehicle, the name and last-known address of the obligor, and any other
16 information required by the director. The notice of lien must state that the child
17 support obligation is past due and that a copy of the notice of lien has been
18 served on the obligor by first-class mail at the obligor's last-known address.
- 19 2. Upon filing of the notice of lien in accordance with this section, the director shall
20 demand in writing the surrender of the certificate of title from the obligor or a
21 superior lienholder for the purpose of recording the lien on the certificate of title.
22 Upon receipt of the certificate of title, the director shall record the fact of the lien
23 and the identity of the lienholder on the certificate of title and deliver the
24 certificate of title to the vehicle's owner or, if a superior lienholder had
25 possession of the certificate of title, to that superior lienholder. If the obligor or
26 superior lienholder fails to surrender the certificate of title within fifteen days after
27 the written demand by the director, the director shall notify the child support
28 agency seeking the lien.
- 29 3. Upon receipt of notice from the director that the obligor or superior lienholder has
30 not responded to the demand for surrender of a title certificate, the child support
31 agency may obtain an order from a court of competent jurisdiction requiring the
32 certificate of title to be delivered to the court so that a lien may be properly

- 1 recorded.
- 2 4. No fee may be charged for services provided under this section.
- 3 5. The director may determine a certificate of title to have been fraudulently
- 4 procured if endorsed by a previous owner who, at the time the endorsement was
- 5 made:
- 6 a. ~~Was was an obligor who owed past-due child support; and~~
- 7 b. ~~Had been served with a copy of a notice of lien filed under this section with~~
- 8 ~~respect to the vehicle described on that certificate of title.~~
- 9 6. ~~A lien under this section is perfected when the lien is recorded on the certificate~~
- 10 ~~of title.~~

11 **SECTION 4. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is

12 amended and reenacted as follows:

13 **35-34-04. Vessel lien.**

- 14 1. In the case of a vessel, the child support agency may ~~establish a lien by filing~~ file
- 15 a notice of lien with the secretary of state if the value of the vessel is estimated to
- 16 be at least twice the cost of establishing the lien. The notice must contain a
- 17 description of the make, model designation, and serial number of the vessel,
- 18 including its identification or registration number, if any, and the name, social
- 19 security number, and last-known address of the obligor. The notice of lien must
- 20 state that the child support obligation is past due and that a copy of the notice of
- 21 lien has been served on the obligor by first-class mail at the obligor's last-known
- 22 address.
- 23 2. Upon filing of the notice of lien in accordance with this section, the notice of lien
- 24 must be indexed by the secretary of state in the central indexing system and may
- 25 be enforced and foreclosed in the same manner as a security agreement under
- 26 the provisions of title 41.
- 27 3. The secretary of state shall remove and destroy the lien notification statement in
- 28 the same manner as provided for other liens in section 11-18-14 for the recorder.
- 29 4. ~~A lien under this section is perfected when notice of the lien is filed with the~~
- 30 ~~secretary of state.~~
- 31 5. The child support agency may file an amendment to correct the social security
- 32 number of the obligor, to correct the spelling of the obligor's name, or to correct

1 or change the address of the obligor.

2 **SECTION 5. AMENDMENT.** Subsection 1 of section 35-34-06 of the North Dakota
3 Century Code is amended and reenacted as follows:

4 1. In the case of untitled personal property ~~that does not consist of a vehicle, a~~
5 ~~vessel, or other than~~ an account maintained in a financial institution, the child
6 support agency may establish a lien on such personal property by filing a notice
7 of lien with the office of the recorder in the county in which the personal property
8 may be found, with the secretary of state, or with a third party who is in
9 possession of the personal property. The notice must particularly describe the
10 property to be subjected to the lien and the name and last-known address of the
11 obligor. The notice of lien must state that the child support obligation is past due
12 and that a copy of the notice of lien has been served on the obligor by first-class
13 mail at the obligor's last-known address.

14 **SECTION 6. AMENDMENT.** Section 35-34-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **35-34-09. Immunity from liability.** A person in possession of, or obligated with
17 respect to, property, who, upon demand of the child support agency, surrenders the
18 property, complies with section 35-34-12, or otherwise acts in good faith to comply with the
19 requirements in this chapter, is subject to the same duties and liabilities as an income payer
20 under section 14-09-09.3 unless the context indicates otherwise and is immune from suit or
21 any liability under any federal or state law. The court shall award reasonable attorney's fees
22 and costs against any person who commences an action that is subsequently dismissed by
23 reason of the immunity granted by this section

24 **SECTION 7. AMENDMENT.** Section 35-34-10 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **35-34-10. Action to enforce lien.** In any case in which there has been a refusal or
27 neglect to pay child support, the child support agency, in addition to any other relief, may
28 enforce a lien arising under this chapter by demanding in writing the surrender of the
29 property, issuing an execution under chapter 28-21, or serving a deduction order under
30 section 50-09-35. The child support agency also may file an action in any court of
31 competent jurisdiction to enforce a lien under this chapter. The filing of an action does not
32 preclude the child support agency from pursuit of any other means of enforcement available

1 under state or federal law.

2 **SECTION 8. TRANSITION.** The registry created in Section 4 of this Act may
3 include any lien under chapter 35-34 that exists on the effective date of this act. Any lien
4 that is added to the lien registry under this section retains its original effective date and
5 priority.

6 **SECTION 9. EFFECTIVE DATE.** This Act becomes effective on January 1, 2012.