

Service of documents will be recorded

Mr A.N. Other

## Notice of Intended Recovery of Funds

### Payments under the Advance on Child Support Act (*UVG*) to your child, XXX born XX/XX/20XX

Your child has been receiving payments under the Child Support (Advance Payments) Act (*UVG*) since (DD/MM/YYYY), because you have been failing to fully meet your obligation to pay child support. Monthly payments are currently at €XXX.XX.

The payable amount is prescribed in Section 1 of the Child Support (Minimum) Regulation (*MinUrhV*) and calculated after deduction of child benefit and spouse maintenance.

For the duration of the advance payments to your child, the child support claim – limited to the advance payments made - transfers to the State of North Rhine-Westphalia in accordance with Section 7(1) of the *UVG* Act. The government agency acting on behalf of the state is the child support enforcement division of LAFIN, the 'State Bureau for Finance'. To fulfil your obligations, you need to pay the sum you are liable for to LAFIN.

If the payment is late or the case is pending in court, LAFIN may ask you to pay **interest**.

If there is a *Beistandschaft* agreement with the local *Jugendamt* (child and youth services), the *Jugendamt* representative may ask you to make over your payment to their account.

Under Section 1601 et seq. of the German Civil Code (*BGB*), your children are **entitled to receive from you the necessary support and relevant information**.

As long as you fail to show evidence that you not fully able to pay child support in line with your obligations under the law, I have to assume, backed by Federal case law, that you are **fully capable of paying**. It would therefore be in your best interest to supply the necessary information.

If you wish to claim inability to work/pay, please use the attached asset disclosure form. This questionnaire should be completed, signed and sent back to us by DD/MM/YYYY. Please enclose **copies**, and not originals, of documentary evidence. Our postal address is:

**LaFin NRW, Abt. UE, Scanstelle Leopoldstrasse, D-32750 Detmold**

You also need to prove that you have been making every effort to earn enough money, given that you have an increased obligation towards underaged children. This means that you must do everything in your power to fulfil your obligation to pay child support and take all reasonable steps to earn a sufficient income.

Following a decision by Germany's High Court (*BGH*), there is an **increased obligation to accept work** not normally in line with your vocational, academic or professional qualification. This might include side jobs or overtime. You are also expected, within reason, to relocate or change career paths.

If you cannot show **sufficient efforts** and if you are deemed to be fit to work, a **notional income** will be imputed, from which child support payments can be deducted, at least up to the amount you are owing to LAFIN's child support enforcement division.

Unless you fully disclose, in time, your income and other assets, the necessary information will be obtained from third parties. (i.e. employers, jobcentre etc.) It would therefore be in your best interest to cooperate.

SAMPLE

Should you, with or without intent, fail to comply with the requirement, under the law, to provide the requisite information truthfully, comprehensively and in time, you will be committing an **administrative offence** and therefore liable to pay a fine totalling up to **1000 euros** (Section 10 of the Child Support (Advance Payments) Act (*UVG*) read with Section 17 of the Administrative Offences Act (*OWiG*).

Should the requisite documents fail to reach me within the specified time limit, I will take the necessary steps to obtain the information I need.

Please note that it is within my powers under Section 6(6) of the *UVG* Act to request information from the Federal Government's Central Tax Office (*BZSt*). The Central Tax office will then supply certain data forwarded by the banks, such as the account holder's name and date of birth, the account number and any power of attorney that may exist in regard to access to the account unless the account was closed down three or more years ago (Section 6(6) of the *UVG* Act read with Section 93b(4) of the Revenue Enforcement Procedure Rules (*AO*), and Section 24c(1) of the German Banking Act (*KWG*).

I am therefore requesting you to repay the advanced amount of **€ XXXX.XX** by DD/MM/YYYY, as well as the monthly child support payments made by LAFIN's child enforcement division, i.e. € XXX.XX. Your monthly payments must reach us by the first day of each month, beginning on 01/XX.XXXX.

Quoting the *Aktenzeichen* reference is crucial, because without it we would not be able to attribute the payment to your case without undue delay. Any delay, however, would be held against you.

If you cannot pay the arrears in one go, please let us know immediately. I will then look into the **possibility of a 'time to pay agreement'**, which will give you either more time to pay, or a schedule to pay in instalments.

If you do not respond to this letter, please be aware that the case will be passed to the **bailiffs for enforcement** of the child support claim transferred to me.

Please be advised that it is an **offence under Section 170 of the German Criminal Code (StGB) to evade your child support responsibilities** and put the child's livelihood in jeopardy. It would be well within my powers to make a criminal complaint, and I absolutely reserve the right to do precisely that.

Please find enclosed a privacy notice with details about the scope of data collection and the legal authority for processing personal data.

Yours sincerely

signed by

For and on behalf of the Director

Encl.:

- Questionnaire
- Privacy notice