

DOMESTIC RELATIONS AND PERSONS

CHAPTER 142

SENATE BILL NO. 2075

(Industry, Business and Labor Committee)
(At the request of the Labor Commissioner)

DISCRIMINATORY PRACTICE DEFINED

AN ACT to amend and reenact subsection 6 of section 14-02.4-02 of the North Dakota Century Code, relating to the definition of the term discriminatory practice for human rights purposes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 6 of section 14-02.4-02 of the North Dakota Century Code is amended and reenacted as follows:

6. "Discriminatory practice" means an act or attempted act which because of race, color, religion, sex, national origin, age, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer results in the unequal treatment or separation or segregation of any persons, or denies, prevents, limits, or otherwise adversely affects, or if accomplished would deny, prevent, limit, or otherwise adversely affect, the benefit of enjoyment by any person of employment, labor union membership, public accommodations, public services, or credit transactions. The term "discriminate" includes segregate or separate and for purposes of discrimination based on sex, it includes sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:
 - a. Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, or education;
 - b. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

- c. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations, public services, or educational environment; and in the case of employment, the employer is responsible for its acts and those of its supervisory employees if it knows or should know of the existence of the harassment and fails to take timely and appropriate action.

Approved March 7, 2007

Filed March 8, 2007

CHAPTER 143**SENATE BILL NO. 2076**

(Industry, Business and Labor Committee)
(At the request of the Labor Commissioner)

HUMAN RIGHTS ENFORCEMENT

AN ACT to amend and reenact section 14-02.4-22 of the North Dakota Century Code, relating to the duties and powers of the labor department relating to human rights enforcement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-22 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-22. Duties and powers of department.

1. The department shall receive and investigate complaints alleging violations of this chapter. The department shall emphasize conciliation to resolve complaints.
2. For the purpose of thoroughly investigating a complaint, the department may require the attendance of a witness and the production of a book, record, document, data, or other object at any hearing or with reference to any matter the department has the authority to investigate. If under this subsection a witness fails or refuses to appear or to produce, the department may issue a subpoena to compel the witness to appear or a subpoena duces tecum to compel the witness to appear and produce a relevant book, record, document, data, or other object.
3. If a person refuses to obey a subpoena, the district court, upon application by the department, may issue to the person an order requiring that person appear and give evidence or otherwise produce documentary evidence requested by the department regarding the matter under investigation.
4. A witness who is subpoenaed under this section and who appears at a hearing or whose deposition is taken is entitled to receive the same fees and mileage as a witness in a civil case in district court.
5. The department may adopt rules necessary to implement this chapter.
6. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, employers, providers of public accommodations or services, and commercial lenders on the rights and responsibilities provided under this chapter and ways to respect those protected rights. ~~The department shall emphasize conciliation to resolve complaints.~~

7. The department shall publish in even-numbered years a written report recommending legislative or other action to carry out the purposes of this chapter. The department shall conduct studies relating to the nature and extent of discriminatory practices in this state.

Approved April 26, 2007
Filed April 27, 2007

CHAPTER 144**SENATE BILL NO. 2074**

(Judiciary Committee)

(At the request of the Labor Commissioner)

HOUSING DISCRIMINATION

AN ACT to amend and reenact section 14-02.5-13 of the North Dakota Century Code, relating to the duties and powers of the labor department relating to housing discrimination.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.5-13 of the North Dakota Century Code is amended and reenacted as follows:

14-02.5-13. Duties and powers of department.

1. The department shall administer this chapter. The department may adopt rules necessary to implement this chapter, but substantive rules adopted by the department must impose obligations, rights, and remedies that are the same as are provided in federal fair housing regulations.
2. For the purpose of thoroughly investigating a complaint, the department may require the attendance of a witness and the production of a book, record, document, data, or other object at any hearing or with reference to any matter the department has the authority to investigate. If under this subsection a witness fails or refuses to appear or to produce, the department may issue a subpoena to compel the witness to appear or a subpoena duces tecum to compel the witness to appear and produce a relevant book, record, document, data, or other object.
3. If a person refuses to obey a subpoena, the district court, upon application by the department, may issue to the person an order requiring that person appear and give evidence or otherwise produce documentary evidence requested by the department regarding the matter under investigation.
4. A witness who is subpoenaed under this section and who appears at a hearing or whose deposition is taken is entitled to receive the same fees and mileage as a witness in a civil case in district court.
5. Within the limits of legislative appropriations, the department shall foster prevention of discrimination under this chapter through education for the public, landlords, publishers, realtors, brokers, lenders, and sellers on the rights and responsibilities provided under this chapter and ways to respect those protected rights.
6. The department shall emphasize conciliation to resolve complaints.

Approved May 1, 2007

Filed May 2, 2007

CHAPTER 145**HOUSE BILL NO. 1414**

(Representatives Heller, Kreidt)
(Senator Christmann)

DEBT DIVISION UPON DIVORCE

AN ACT to amend and reenact section 14-05-24 of the North Dakota Century Code, relating to the division of property in a divorce proceeding.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-24 of the North Dakota Century Code is amended and reenacted as follows:

14-05-24. Division of property and debts.

1. When a divorce is granted, the court shall make an equitable distribution of the property and debts of the parties.
2. The court may redistribute property and debts in a postjudgment proceeding if a party has failed to disclose property and debts as required by rules adopted by the supreme court or the party fails to comply with the terms of a court order distributing property and debts.

Approved March 23, 2007
Filed March 23, 2007

CHAPTER 146**HOUSE BILL NO. 1238**

(Representatives Delmore, DeKrey, Koppelman)
(Senators Fischer, Lyson, Nelson)

DOMESTIC VIOLENCE CRIME PROCEDURES

AN ACT to amend and reenact section 14-07.1-01, subsection 2 of section 14-07.1-10, and section 14-07.1-12 of the North Dakota Century Code, relating to law enforcement procedures in crimes involving domestic violence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-07.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-01. Definitions.

1. "Department" means the state department of health.
2. "Domestic violence" includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.
3. "Domestic violence sexual assault organization" means a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault.
4. "Family or household member" means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.
5. "Health officer" means the state health officer of the department.
6. "Law enforcement officer" means a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigations of violations of law.
7. "Predominant aggressor" means an individual who is the most significant, not necessarily the first, aggressor.
8. "Willfully" means willfully as defined in section 12.1-02-02.

SECTION 2. AMENDMENT. Subsection 2 of section 14-07.1-10 of the North Dakota Century Code is amended and reenacted as follows:

2. A law enforcement officer investigating a crime involving domestic violence may not threaten, suggest, or otherwise indicate, for the purpose of discouraging requests for law enforcement intervention, that family or household members will be arrested. When complaints are received from two or more family or household members, the officer shall evaluate each complaint separately to determine if either party acted in self-defense as defined in section 12.1-05-03. If self-defense is not a factor, to determine whether to seek an arrest warrant or to pursue further investigation, the officer ~~may determine~~ shall consider which party has engaged in the most immediately significant aggression was the predominant aggressor by considering certain factors, including the comparative severity of injuries involved, any history of domestic violence, or any other violent acts that the officer can reasonably ascertain and the likelihood of future harm.

SECTION 3. AMENDMENT. Section 14-07.1-12 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-12. Reports. A law enforcement officer shall make a written report of the investigation of any allegation of domestic violence regardless of whether an arrest was made. If an officer determines through the course of an investigation that one of the individuals ~~has engaged in the most immediately significant aggression was the predominant aggressor~~, the report must include the name of that individual and a description of the evidence that supports the findings. The officer shall submit the report to the officer's supervisor or to any other person to whom the officer is required to submit similar reports.

Approved March 9, 2007
Filed March 12, 2007

CHAPTER 147**SENATE BILL NO. 2064**

(Judiciary Committee)

(At the request of the Adjutant General)

CHILD CUSTODY MODIFICATION

AN ACT to create and enact a new subsection to section 14-09-06.6 of the North Dakota Century Code, relating to the modification of custody of a child with a service member parent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 14-09-06.6 of the North Dakota Century Code is created and enacted as follows:

If a motion for change of custody is filed during the time a parent is in active duty service, the court may not enter an order modifying or amending a previous judgment or order, or issue a new order, which changes the child's placement that existed on the date the parent was called to active duty service, except the court may enter a temporary custody order that is in the best interest of the child. The temporary custody order must explicitly provide that custody must be restored to the service member upon the service member's release from active duty service, unless the court finds by clear and convincing evidence that restoration of custody would not be in the best interest of the child. If an original custody decision is pending and the service member is alerted for active duty service, or is absent for active duty service, the court may not issue a permanent custody order until the return of the service member from active duty. The court may issue a temporary custody order in the best interest of the child for the time period of the active duty service. This section does not prevent a service member from consenting to a modification of custody that continues past discharge or release from active duty service or to agreeing to a permanent custody order before release from active duty service. For purposes of this section, "service member" means a member of the national guard or a reserve unit of the United States armed forces and "active duty service" means an order to active duty under United States Code title 10.

Approved March 7, 2007

Filed March 8, 2007

CHAPTER 148**SENATE BILL NO. 2129**

(Judiciary Committee)

(At the request of the Department of Human Services)

CHILD SUPPORT ENFORCEMENT

AN ACT to create and enact subsection 7 to section 12.1-37-01, section 14-09-08.22, a new subdivision to subsection 1 of section 14-09-09.7, section 14-09-09.36, subsection 10 to section 14-09-25, and section 50-09-37 of the North Dakota Century Code, relating to child support enforcement; to amend and reenact subsection 2 of section 14-09-08.1, subsection 3 of section 14-09-08.2, sections 14-09-08.17, 14-09-09, 14-09-09.31, and 14-09-09.33, subsection 2 of section 50-09-02.1, paragraph 2 of subdivision g of subsection 1 of section 50-09-08.2, section 50-09-08.3, subsection 6 of section 50-09-08.6, and subsection 4 of section 50-09-32 of the North Dakota Century Code, relating to child support enforcement; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Subsection 7 to section 12.1-37-01 of the North Dakota Century Code is created and enacted as follows:

7. In a prosecution under this chapter, a copy of a record certified under section 14-08.1-08 is admissible as prima facie evidence of the contents of the record.

SECTION 2. AMENDMENT. Subsection 2 of section 14-09-08.1 of the North Dakota Century Code is amended and reenacted as follows:

2. a. Each party subject to the order shall immediately inform the state disbursement unit of the party's:
- (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number; and
 - (6) Change of any other condition which may affect the proper administration of this chapter.
- b. The requirements of subdivision a must be incorporated into each order for payment of child support must notify each party of the requirements in subdivision a and require the party to provide the information within ten days from the date of the order or ten days after any change in the information.

- c. In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, the court shall deem due process requirements for notice and service to have been met, with respect to the noticed party, by delivery of written notice to the most recent residential or employer address provided by the noticed party pursuant to this subsection.
- d. The requirements of this subsection continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.

SECTION 3. AMENDMENT. Subsection 3 of section 14-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

3. The person to whom the duty of support is owed under either subsection 1 or 2 may file an affidavit with the district court stating that the requirements of subsection 1 are met, the school in which the child is enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit, the child support ~~continues~~ resumes pursuant to subsection 1 or pursuant to the terms of a judgment or order described in subsection 2. A fee may not be charged for filing such an affidavit.

SECTION 4. AMENDMENT. Section 14-09-08.17 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.17. Delinquent obligor may not renounce claims. An obligor whose child support obligation is delinquent may not renounce, waive, assign, transfer, or disclaim any interest that obligor might otherwise claim in a decedent's estate, a trust, or a similar device, to the extent necessary to satisfy the delinquency. Any attempt to renounce, waive, assign, transfer, or disclaim such an interest is void if attempted after notice of the delinquency is furnished to the person administering the estate, trust, or similar device, and is otherwise voidable.

SECTION 5. Section 14-09-08.22 of the North Dakota Century Code is created and enacted as follows:

14-09-08.22. Enforcement of health insurance coverage from an obligee. When an obligee is required to provide health insurance coverage for a child as a beneficiary under section 14-09-08.10, the order is being enforced under title IV-D, and the obligee's employer has been identified, the public authority may use the national medical support notice to enforce the provision of health insurance coverage for the child. When the national medical support notice is used under this section, sections 14-09-08.11, 14-09-08.20, and 26.1-36.5-03 apply unless the context indicates otherwise.

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

14-09-09. Liability of stepparent for support. A stepparent is not bound to maintain the spouse's dependent children, as defined in section 50-09-01, unless the child is received into the stepparent's family. If the stepparent receives them into the family, the stepparent is liable, to the extent of the stepparent's ability, to support them during the marriage and so long thereafter as they remain in the stepparent's family. Such liability may be enforced against the stepparent by any person furnishing necessaries to such children. If an order issued under section

14-09-08.10 requires an obligee to provide health insurance coverage, any coverage that is available to the stepparent for the obligee's dependent children is considered to be available to the obligee and is enforceable against the stepparent by a child support agency. If the children are received into the stepparent's family and supported by the stepparent, it is presumed that the stepparent does so as a parent, in which case the children are not liable to the stepparent for their support, nor the stepparent to them for their services. The legal obligation of a natural or adoptive parent to support that person's children is not affected by the liability imposed upon their stepparent by this section.

⁷⁹ **SECTION 7.** A new subdivision to subsection 1 of section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

Authorize a rebuttal of the presumption provided in subsection 3 based on the proportionate net income of the obligor and the obligee when the net income of the obligee is at least three times higher than the net income of the obligor.

SECTION 8. AMENDMENT. Section 14-09-09.31 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.31. Child support exempt from process. A child support obligation owed to an obligee who is a judgment debtor may not be subject to execution, garnishment, attachment, or other process except to satisfy that child support obligation. This section does not prohibit the public authority from authorizing the state disbursement unit to apply a payment of past-due support owed to an obligee to a child support obligation owed by the same obligee or to another debt being enforced by the North Dakota department of human services that arises out of a public assistance program.

SECTION 9. AMENDMENT. Section 14-09-09.33 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.33. ~~Judicial offset~~ Offsets of child support.

1. Notwithstanding section 14-09-09.31, a court may order that a specific amount of past-due child support owed by an obligor to an obligee be offset by an equal amount of past-due child support owed to the obligor by the obligee. An order for an offset is permitted under this subsection only if:
 - a. The proposed offset is limited to past-due child support and does not apply to child support owed in the current month or owed in any future month;
 - b. The proposed offset does not include any past-due child support that has been assigned;

⁷⁹ Section 14-09-09.7 was also amended by section 4 of Senate Bill No. 2336, chapter 149, and section 5 of Senate Bill No. 2336, chapter 149.

- c. Neither party whose past-due child support obligation will be reduced or eliminated by the proposed offset owes past-due child support to another obligee; and
 - d. The opportunity to offset past-due child support under this section has not been used by either party as an incentive to avoid paying child support in the month in which it is due.
2. The order must include a specific finding that the proposed offset serves the best interests of the children to whom the obligor and obligee owe a duty of support.
 3. The public authority may issue an order offsetting past-due child support if neither party objects after being notified of the proposed offset.
 4. Past-due child support owed by an obligor to an obligee may not be offset by past-due child support owed to the obligor by the obligee except as permitted in this section.
4. 5. An obligor's child support obligation for the current month or for a future month may not be offset by past-due child support or other debts owed to the obligor by an obligee unless the court orders the offset as a method of satisfying an overpayment of child support that results from the establishment or reduction of a child support obligation.
 5. 6. An offset of child support under this section is considered a payment of child support by both the obligor and the obligee. A copy of the order for an offset must be provided to the state disbursement unit.
 6. 7. As used in this section, "child support" does not include spousal support.

SECTION 10. Section 14-09-09.36 of the North Dakota Century Code is created and enacted as follows:

14-09-09.36. Fee for child support services. Any annual fee for child support services imposed by the public authority under section 50-06.3-02 to conform with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.] shall be imposed on the obligee. The amount of the fee in a case which is being enforced under title IV-D must be less, on an annual basis, than the fee in a case which is not being enforced under title IV-D. Upon order of a court, the amount of the fee paid by the obligee may be collected from the obligor as past-due support.

SECTION 11. Subsection 10 to section 14-09-25 of the North Dakota Century Code is created and enacted as follows:

10. Unless any party to a child support order objects within ten days of the date of a notice sent by first-class mail to the party's last-known address, the public authority or clerk of court may change the payee of a child support obligation for the current month or a future month upon request of a guardian or other person who has legal custody of the child or children for whom the child support is being paid.

SECTION 12. AMENDMENT. Subsection 2 of section 50-09-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. The state agency shall establish a statewide automated data processing system designed to conform to requirements imposed by or under title IV-D. The state agency must make that system available for the use of clerks of court in carrying out their duties under section 14-09-08.1. The official records of the state regarding all child support amounts owed, collected, and distributed must be maintained in that system. Notwithstanding section 14-08.1-05, any record of a child support obligation that is currently being enforced in another jurisdiction and not by a child support agency, or that is owed by an obligor who is deceased, may be removed indefinitely from the statewide automated data processing system until a request is received from a party to the child support case to restore those records.

SECTION 13. AMENDMENT. Paragraph 2 of subdivision g of subsection 1 of section 50-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

- (2) Certain records held by private entities with respect to individuals who owe or are owed child support, or against or with respect to whom a child support obligation is sought, consisting of:
 - (a) The names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities, including cellular and wireless telephone service providers, and cable television companies; and
 - (b) Information on assets and liabilities on those individuals held by financial institutions;

SECTION 14. AMENDMENT. Section 50-09-08.3 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08.3. Administrative enforcement in interstate cases. In acting as the official agency of the state in administering the child support program under title IV-D, the state agency, directly or through agents and county agencies:

1. Shall use high-volume automated administrative enforcement, to the same extent as used in intrastate cases, in response to a request made by another state to enforce a child support order, and shall promptly report the results of such enforcement procedure to the requesting state;
2. May transmit requests, by electronic or other means, to other states for assistance in cases involving enforcement of child support orders which include information provided and intended to enable the receiving state to compare information about the case to information in the data bases of the receiving state, and which constitute a certification:
 - a. Of the amount of arrearages, if any, under the child support order; and
 - b. That procedural due process requirements applicable to the case have been complied with;

3. In cases in which the state agency receives requests made by another state to enforce a child support order, shall not consider that matter a child support case transferred to this state, but may establish a corresponding case based on the other state's request for assistance; and
4. Shall maintain records of:
 - a. The number of requests for assistance made by other states;
 - b. The number of cases in which this state collected support in response to requests made by other states; and
 - c. The amount of support collected.

For purposes of this section, the term "high-volume automated administrative enforcement" means, in interstate cases, on request of another state, the identification, by this state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in another state, and the seizure of such assets, by this state, through levy or other appropriate processes.

SECTION 15. AMENDMENT. Subsection 6 of section 50-09-08.6 of the North Dakota Century Code is amended and reenacted as follows:

6. In a contest under this section, the court must affirm the action of the state agency to withhold, restrict, or suspend a license unless it finds that the licensee's delinquency or failure to comply with a subpoena, or an existing payment plan was not willful. Upon a showing by the state agency that the licensee has failed to comply with a subpoena, ~~owes is listed on the arrears in an amount greater than three times the licensee's current or most recent monthly child support obligation or five thousand dollars, whichever is less~~ registry, or is not in compliance with an existing payment plan between the licensee and the state agency under this section, the licensee has the burden of proving that the delinquency or failure to comply was not willful.

SECTION 16. AMENDMENT. Subsection 4 of section 50-09-32 of the North Dakota Century Code is amended and reenacted as follows:

4. The state agency must develop and maintain a list of the names, addresses, and amounts of past-due support owed by obligors who have been found in contempt of court in this state for failure to comply with a child support order or who have been found guilty of willful failure to pay child support under section 12.1-37-01. Notwithstanding subsections 2 and 3, to the extent permitted by federal law, the state agency must release the list upon request under section 44-04-18. The state agency may remove from the list any obligor who no longer owes past-due support, any obligor who is deceased or whose obligation is being enforced in another jurisdiction, or any obligor whose conviction under section 12.1-37-01 has been expunged.

SECTION 17. Section 50-09-37 of the North Dakota Century Code is created and enacted as follows:

50-09-37. Health insurance data match. An insurer as defined in section 26.1-36.5-01 shall exchange health insurance information with the state agency for the purpose of establishing or enforcing a medical support obligation. An insurer shall provide the health insurance information required in this section to the state agency or its agent not more frequently than twelve times in a year. The insurer shall provide the information required in this section at no cost if the information is in a readily available structure or format. If the state agency requests the information in a structure or format that is not readily available, the insurer may charge a reasonable fee for providing the information, not to exceed the actual cost of providing the information. The state agency and its agents may not use or disclose any information provided by the insurer under this section except to establish or enforce a child support or medical support obligation, or as otherwise permitted or required by law. An insurer may not be held liable for the release of health insurance information to the state agency or its agents under this section.

SECTION 18. EMERGENCY. Section 17 of this Act is declared to be an emergency measure.

Approved April 10, 2007
Filed April 11, 2007

CHAPTER 149**SENATE BILL NO. 2336**

(Senators Dever, Fischer, Warner)

(Representative Klemin)

**CHILDREN'S HEALTH INSURANCE AND CARE
LIABILITY**

AN ACT to create and enact a new subdivision to subsection 1 of section 14-09-09.7 and a new subsection to section 14-09-09.7 of the North Dakota Century Code, relating to liability for children's health insurance coverage or other medical support; to amend and reenact section 14-09-08.10, subsection 3 of section 14-09-08.11, section 14-09-08.15, and subsection 3 of section 14-09-09.10 of the North Dakota Century Code, relating to liability for children's health insurance coverage or other medical support; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-08.10 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.10. Order. Each order entered under this code for the support of a minor child or the support of a child after majority under section 14-09-08.2 must include a provision for the child's health insurance coverage ~~for that child or other~~ medical support.

- 1- ~~Except as provided in subsection 2, the~~ Responsibility for the child's health insurance coverage or other medical support must be established according to rules adopted by the public authority. To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules adopted under this section must be based on the income of the obligated parent and include a limitation on the obligation of a low-income parent to provide medical support unless health insurance coverage is available to the parent at no or nominal cost. The order must require the obligor obligated party to provide satisfactory health insurance coverage whenever that coverage is accessible to the child, as defined by the public authority, and available at reasonable cost or becomes accessible and available at reasonable cost.
- 2- ~~If the obligee is an individual with physical custody of the child, the obligee must be required to provide satisfactory health insurance whenever that coverage is available at no or nominal cost.~~

To assist a court in identifying appropriate health insurance coverage under this section, the public authority may publish a list of child-only health insurance policies for children who are not eligible for public health coverage under chapter 50-29. To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules adopted by the public authority under this section may not impair a child's ability to apply for and receive public health coverage under chapter 50-29.

SECTION 2. AMENDMENT. Subsection 3 of section 14-09-08.11 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~Withholding~~ Unless otherwise provided by the public authority in compliance with rules promulgated by the secretary of the United States department of health and human services, withholding required by an order issued under section 14-09-09.15 must be satisfied before any payment is made to the insurer. If the amount remaining is insufficient to pay the obligor's share of premiums for health insurance coverage, the obligor may authorize additional withholding to pay the obligor's share. If the obligor does not authorize additional withholding, and the health insurance coverage will lapse as a result, the employer must promptly inform the public authority of the insufficiency.

SECTION 3. AMENDMENT. Section 14-09-08.15 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.15. Reasonable cost of health insurance. For purposes of this chapter, health insurance is considered reasonable in cost if it is available to the obligor on a group basis or through an employer or union, regardless of service delivery mechanism, or as otherwise defined by the public authority in compliance with rules promulgated by the secretary of the United States department of health and human services. The definition of reasonable cost established by the public authority under this section must consider the scope of covered services, the cost of coverage, and the amount of any copayments or deductibles.

⁸⁰ **SECTION 4.** A new subdivision to subsection 1 of section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

Include consideration of an obligated party's responsibility for health insurance coverage or other medical support under section 14-09-08.10.

⁸¹ **SECTION 5.** A new subsection to section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

The guidelines established under this section may include a separate amount of child support for the child's health insurance coverage, reimbursement for public health coverage provided under chapter 50-29, and other medical support.

⁸² **SECTION 6. AMENDMENT.** Subsection 3 of section 14-09-09.10 of the North Dakota Century Code is amended and reenacted as follows:

⁸⁰ Section 14-09-09.7 was also amended by section 7 of Senate Bill No. 2129, chapter 148, and section 5 of Senate Bill No. 2336, chapter 149.

⁸¹ Section 14-09-09.7 was also amended by section 7 of Senate Bill No. 2129, chapter 148, and section 4 of Senate Bill No. 2336, chapter 149.

⁸² Section 14-09-09.10 was also amended by section 2 of Senate Bill No. 2205, chapter 417.

3. "Child support" means payments for the support of children, including payments for health insurance coverage or other medical support, and combined payments for the support of children and spouses or former spouses, however denominated, if the payment is required by the order of a court or other governmental agency having authority to issue such orders.

SECTION 7. EFFECTIVE DATE. Sections 1, 2, and 3 of this Act become effective on the date the department of human services certifies to the legislative council as the effective date of rules adopted to implement this Act.

Approved April 10, 2007
Filed April 11, 2007

CHAPTER 150**SENATE BILL NO. 2366**

(Senators Krauter, Cook)
(Representatives Froelich, Kerzman)

ADOPTION DECREES AND BIRTH RECORDS

AN ACT to amend and reenact sections 14-15-17 and 14-15-18 of the North Dakota Century Code, relating to a foreign decree of adoption and an application for a new birth record; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-15-17 of the North Dakota Century Code is amended and reenacted as follows:

14-15-17. Recognition or validation of foreign decree affecting adoption.

1. A decree of court terminating the relationship of parent and child or establishing the relationship by adoption issued pursuant to due process of law by a court of any other jurisdiction within or outside of the United States must be recognized in this state and the rights and obligations of the parties as to matters within the jurisdiction of this state must be determined as though the decree were issued by a court of this state.
2. a. To obtain a validation of a foreign decree of adoption, the adoptive parent shall provide to the court a petition for validation of foreign adoption, an admission stamp in the adopted individual's passport which indicates that the individual was admitted to the United States with an IR-3 visa, the individual's foreign birth certificate and English translation, the individual's foreign adoption decree and English translation, and a signed affidavit from the agency which states that the foreign adoption is valid and which states the name by which the individual is to be known. The petition for validation of foreign adoption must be signed and verified by the petitioner, filed with the clerk of the court, and state:
 - (1) The date and place of birth of the individual to be adopted, if known;
 - (2) The name to be used for the individual whose foreign adoption decree is being petitioned for validation;
 - (3) The date the petitioner acquired custody or the date of placement of the individual and the name of the foreign country's placing agency;
 - (4) The full name, age, place, and duration of residence of the petitioner; and
 - (5) The marital status of the petitioner, including the date and place of marriage, if married.

- b. Upon a finding that the requirements of subdivision a have been met, the court shall issue a decree of validation of foreign adoption. The clerk of court shall forward a copy of the decree of validation of foreign adoption to the registrar of vital statistics for the issuance of a birth record in accordance with section 14-15-18.

SECTION 2. AMENDMENT. Section 14-15-18 of the North Dakota Century Code is amended and reenacted as follows:

14-15-18. Application for new birth record. Within thirty days after an adoption decree or decree of validation of foreign adoption becomes final, the clerk of the court shall prepare an application for a birth record in the new name of the adopted individual and forward the application to the appropriate vital statistics office of the place, if known, where the adopted individual was born and forward a copy of the decree to the department of this state for statistical purposes. In the case of the adoption of an individual born outside of the United States, the court may make findings, based on evidence from the petitioner and other reliable state or federal sources, on the date and place of birth and parentage of the adopted individual. These findings must be certified by the court and included with the report of adoption filed with the state registrar of vital statistics pursuant to section 23-02.1-17.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2007
Filed April 24, 2007