

DOMESTIC RELATIONS AND PERSONS

CHAPTER 121

HOUSE BILL NO. 1463

(Representatives Muscha, Beadle, Mitskog, Mooney, Oversen, Schneider, Toman,
Wallman)
(Senators Dotzenrod, Oban)

AN ACT to amend and reenact section 14-02.4-03 of the North Dakota Century Code, relating to reasonable accommodations in the workplace for pregnancy.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-03 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-03. Employer's discriminatory practices.

1. It is a discriminatory practice for an employer to fail or refuse to hire a ~~person~~an individual; to discharge an employee; or to accord adverse or unequal treatment to a ~~person~~an individual or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, or a term, privilege, or condition of employment, because of race, color, religion, sex, national origin, age, physical or mental disability, status with respect 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.
2. It is a discriminatory practice for an employer to fail or refuse to make reasonable accommodations for an otherwise qualified ~~person~~individual with a physical or mental disability, because that individual is pregnant, or because of that ~~person's~~individual's religion. An employer is not required to provide an accommodation that would disrupt or interfere with the employer's normal business operations; threaten an individual's health or safety; contradict a business necessity of the employer; or impose an undue hardship on the employer, taking into consideration the size of the employer's business, the type of business, the financial resources of the employer, and the estimated cost and extent of the accommodation.
3. This chapter does not prohibit compulsory retirement of any employee who has attained sixty-five years of age, but not seventy years of age, and who, for the two-year period immediately before retirement, is employed in a bona fide executive or high policymaking position, if the employee is entitled to an immediate nonforfeiture annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of those plans, of the employer of the employee, which equal, in the aggregate, at least forty-four thousand dollars.

Approved April 6, 2015
Filed April 6, 2015

CHAPTER 122

HOUSE BILL NO. 1217

(Representatives Delmore, Kretschmar, Wallman)
(Senators Armstrong, J. Lee, Nelson)

AN ACT to amend and reenact sections 14-02.5-02 and 47-16-17.1 of the North Dakota Century Code, relating to the rental of a dwelling to a victim of domestic violence.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.5-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.5-02. Sale or rental.

1. A person may not refuse to sell or rent, after the making of a bona fide offer, refuse to negotiate for the sale or rental of, or in any other manner make unavailable or deny a dwelling to an individual because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
2. A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, or status with respect to marriage or public assistance.
3. An applicant for or tenant of housing that is part of a state housing program may not be denied admission to, denied assistance under, terminated from participating in, or evicted from housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.
4. This section does not prohibit discrimination against an individual because the individual has been convicted under federal law or the law of any state of the illegal manufacture or distribution of a controlled substance.
- 4-5. Nothing in this chapter prevents a person from refusing to rent a dwelling to two unrelated individuals of opposite gender who are not married to each other.

SECTION 2. AMENDMENT. Section 47-16-17.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-17.1. Termination due to domestic abuse.

1. A tenant to a residential lease who is a victim of domestic violence as defined in section 14-07.1-01 or fears imminent domestic violence against the tenant or the tenant's minor children if the tenant or the tenant's minor children

remain in the leased premises may terminate a lease agreement, as provided in this section, without penalty or liability.

2. The tenant must provide advance written notice to the landlord stating ~~that the:~~
 - a. ~~The tenant fears imminent domestic violence from a person named in a protection order after a hearing under section 14-07.1-02 or an order prohibiting contact thea court order, protection order under section 14-07.1-02, ex parte temporary protection order, order prohibiting contact, restraining order, or other record filed with a court;~~
 - b. ~~The tenant needs to terminate the tenancy;~~ and
 - c. ~~The specific date the tenancy will terminate.~~
3. The notice must be delivered by mail, facsimile communication, or in person before the termination of the tenancy, ~~and be accompanied by the protection order or the order prohibiting contact.~~
- ~~3-4.~~ A landlord may not disclose information provided to the landlord by a tenant documenting domestic violence under this section. The information may not be entered into any shared database or provided to any person, but may be used as evidence in an eviction proceeding, in a claim for unpaid rent or damages arising out of the tenancy, or as otherwise required by law.
- ~~4-5.~~ A tenant terminating a lease under this section is responsible for the rent payment for the full month in which the tenancy terminates and an additional amount equal to one month's rent, subject to the landlord's duty to mitigate. The tenant is relieved of any other contractual obligation for payment of rent or any other charges for the remaining term of the lease, except as provided in this section.
- ~~5-6.~~ This section does not affect a tenant's liability for delinquent, unpaid rent, or other amounts owed to the landlord before the lease was terminated by the tenant under this section.
- ~~6-7.~~ The tenancy terminates, including the right of possession of the premises, on the termination date stated in the notice under subsection 2. The amount equal to one month's rent must be paid on or before the termination of the tenancy for the tenant to be relieved of the contractual obligations for the remaining term of the lease as provided in this section.
- ~~7-8.~~ For purposes of this section, timing for the payment of the lessee's security deposit under section 47-16-07.1 is triggered by either of the following:
 - a. If the only tenant, including the tenant's minor children, is the tenant who is the victim of domestic violence, upon the first day of the month following the date the tenant vacates the premises.
 - b. If there are additional tenants bound by the lease, upon the expiration of the lease.
- ~~8-9.~~ Notwithstanding the release of a tenant from a lease agreement under this section, the tenancy continues for any remaining tenants.

9-10. A person may not refuse to rent, refuse to negotiate for the rental of, or in any other manner make unavailable or deny a dwelling to an individual, or otherwise retaliate in the rental of a dwelling solely because a tenant or applicant or a household member of the tenant or applicant exercised the right to terminate a lease under this section.

~~40-11.~~ In an action for a violation of this section, the court may award statutory damages of one thousand dollars. The court also may award actual damages, reasonable attorney's fees, costs, and disbursements.

Approved April 28, 2015
Filed April 28, 2015

CHAPTER 123

HOUSE BILL NO. 1183

(Representatives Beadle, Meier, Oversen, Strinden)
(Senators J. Lee, Miller, Unruh)

AN ACT to amend and reenact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options on a marriage license application or marriage license.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-03-20.2 of the North Dakota Century Code is amended and reenacted as follows:

14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If an individual elects to change that individual's middle name, the middle name entry on the marriage license application or marriage license must consist of ~~the~~
 - a. The premarriage surname or former surname of that individual;
 - b. The premarriage middle name and the premarriage surname or former surname of that individual; or
 - c. A hyphenated combination of the premarriage middle name and the premarriage surname or former surname of that individual.
2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1.

Approved March 20, 2015
Filed March 20, 2015

CHAPTER 124

HOUSE BILL NO. 1399

(Representatives Looyesen, Beadle, Brabandt, Dockter, Kading, Klemin, Maragos,
Ruby, Steiner)
(Senators Casper, Larsen)

AN ACT to amend and reenact section 14-05-24.1 of the North Dakota Century Code, relating to termination of spousal support; to provide for a legislative management study; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-24.1 of the North Dakota Century Code is amended and reenacted as follows:

14-05-24.1. Spousal support.

1. Taking into consideration the circumstances of the parties, the court may require one party to pay spousal support to the other party for any limited period of time in accordance with this section. The court may modify its spousal support orders.
2. Unless otherwise agreed to by the parties in writing, spousal support is terminated upon the remarriage of the spouse receiving support. Immediately upon remarriage, the spouse receiving support shall provide notice of the remarriage to the payor spouse at the last known address of the payor spouse.
3. Unless otherwise agreed to by the parties in writing, upon an order of the court based upon a preponderance of the evidence that the spouse receiving support has been habitually cohabiting with another individual in a relationship analogous to a marriage for one year or more, the court shall terminate spousal support.
4. Subsections 2 and 3 do not apply to rehabilitative spousal support.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - SPOUSAL SUPPORT.

During the 2015-16 interim, the legislative management shall consider studying the types of spousal support ordered by the district courts and the desirability of providing statutory guidance for awards of spousal support. The legislative management shall report its findings and recommendations, together with any proposed legislation required to implement the recommendations, to the sixty-fifth legislative assembly.

SECTION 3. APPLICATION. Subsection 2 of section 1 of this Act applies to any spousal support order, regardless of date of issuance, but applies only to spousal support payments accruing after the effective date of this Act. Subsection 3 of section 1 of this Act applies to any spousal support order, regardless of the date of issuance, but applies only to spousal support payments accruing after a court order for termination of spousal support.

Approved April 27, 2015
Filed April 27, 2015

CHAPTER 125

HOUSE BILL NO. 1338

(Representatives Thoreson, Muscha, Seibel)
(Senators J. Lee, Nelson, Poolman)

AN ACT to amend and reenact subsections 3 and 4 of section 14-07.1-20 of the North Dakota Century Code, relating to required disclosure of records to the domestic violence fatality review commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 3 and 4 of section 14-07.1-20 of the North Dakota Century Code are amended and reenacted as follows:

3. The commission may investigate and review the facts and circumstances of all deaths that occur in the state as a result of domestic violence.
 - a. The review may include necessary and appropriate information, including current laws and policies, actions taken by agencies and persons related to or involved with the incident, criminal justice data collection and analysis, and other information the commission determines to be relevant to the review.
 - b. The confidential and other appropriate records of a department or agency of the state, county, or municipality relating to the domestic violence incident may be examined by the commission. Upon request or investigative demand from a representative of the commission, any hospital, physician, medical professional, medical facility, mental health professional, or mental health facility shall disclose all records of that person with respect to any death that has occurred as a result of domestic violence, as determined by the commission. The domestic violence fatality review commission and each member of the commission shall preserve the confidentiality of any records examined.
4. The domestic violence fatality review commission shall report its findings and recommendations from the previous calendar year to the attorney general before ~~December~~March thirty-first of each year.

Approved April 1, 2015
Filed April 1, 2015

CHAPTER 126

HOUSE BILL NO. 1111

(Judiciary Committee)

(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to the person who is allowed to claim the tax deduction for a child under a child support order; to amend and reenact section 14-09-08.2, subsections 1 and 3 of section 14-09-08.4, sections 14-09-08.5, 14-09-08.6, 14-09-08.7, 14-09-08.11, 14-09-08.13, 14-09-09.30, 35-34-04, 35-34-06, and 50-09-06.1 of the North Dakota Century Code, and section 73 of chapter 152 of the 2009 Session Laws, relating to child support; to repeal section 14-09-08.8 of the North Dakota Century Code, relating to motions to amend child support; to provide for a report to the legislative management; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-09-08.2 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.2. Support for children after majority - Retroactive application.

1. A judgment or order requiring the payment of child support until the child attains majority continues as to the child until the end of the month during which the child is graduated from high school or attains the age of nineteen years, whichever occurs first, if:
 - a. The child is enrolled and attending high school and is eighteen years of age prior to the date the child is expected to be graduated; and
 - b. The child resides with the person to whom the duty of support is owed.
2. A judgment or order may require payment of child support after majority under substantially the circumstances described in subsection 1.
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 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.
4. The clerk of court shall serve the affidavit by first-class mail upon the person owing the duty of support. If at any time thereafter the person owing the duty of support files a motion with the court, supported by that person's affidavit that the child is no longer enrolled in or attending high school, the court shall determine if the child is enrolled in and attending high school and shall enter an order accordingly.

5. This section applies to child support orders concerning children described in subsection 1 or 2, regardless of the date of entry of the order.
6. This section does not preclude the entry of an order for child support which continues after the child reaches age eighteen, if the parties agree, or if the court determines the support to be appropriate.
7. For purposes of this section, ~~a:~~
 - a. A child is treated as being in school during summer vacation if the child was enrolled in and attending school and did not graduate from high school at the end of the school period immediately preceding the summer vacation; and
 - b. A child who is currently enrolled in school is not considered to have graduated, even if all required coursework and examinations have been completed, until the ceremony is held by the school to commemorate the child's graduation.

SECTION 2. AMENDMENT. Subsections 1 and 3 of section 14-09-08.4 of the North Dakota Century Code are amended and reenacted as follows:

1. Each child support order being enforced by the child support agency must be reviewed by the child support agency no less frequently than thirty-six months after the establishment of the order or the most recent amendment or review of the order by the court or child support agency unless:
 - a. In the case of an order with respect to which there is in effect an assignment under chapter 50-09, the child support agency has determined that a review is not in the best interests of the child and neither the obligor nor the obligee has requested review; ~~or~~
 - b. In the case of any other order neither the obligor nor the obligee has requested review; or
 - c. In the case of a review requested by the obligor, the obligor failed to provide information required under subsection 1 of section 14-09-08.6 with the request for review.
3. If, upon review, the child support agency determines that the order provides for child support payments in an amount that is inconsistent with the amount that would be required by the child support guidelines established under subsection 1 of section 14-09-09.7, the child support agency may seek an amendment of the order. If the order provides for child support payments in an amount less than eighty-five percent or more than one hundred fifteen percent of the amount that would be required by those guidelines, the child support agency shall seek an amendment of the order.

SECTION 3. AMENDMENT. Section 14-09-08.5 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.5. Notice of ~~periodic~~ review of child support orders.

1. The child support agency shall provide written notice, including notice through electronic means, to the obligee and the obligor that a ~~child support order being enforced by the child support agency~~ may be subject to review under

~~section 14-09-08.4. The notice may be sent by first class mail to the obligor and the obligee, at the addresses they have most recently provided to the child support agency, at least thirty-five days before the commencement of the review is commencing.~~

- ~~2. The~~Unless sufficient information was previously provided by the obligor with a request for review, the notice to the obligor must inform the obligor of the duty to furnish the information required by section 14-09-08.6 and that a failure to furnish the required information may result in the entry of an order compelling the furnishing of the information. ~~The notice must also inform the obligor that the review determination will be mailed to the obligor following the review. The notice must be accompanied by an income report form, together with instructions for the accurate completion of the income report form.~~

SECTION 4. AMENDMENT. Section 14-09-08.6 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.6. Obligor's duties upon review - Failure to provide information.

~~4. The~~Unless sufficient information was previously provided by the obligor with a request for review, the obligor shall provide information to the child support agency concerning the obligor's income, which is sufficient to accomplish the review, ~~no later than five working days before the date of review~~by the date required by the child support agency. The information must be furnished by providing an:

- ~~1. An~~ An income report, in the form and manner required by the child support agency, accurately completed and attested to by the obligor; ~~earnings;~~
- ~~2. Earnings~~ Earnings statements secured from the obligor's current income payer if the obligor changed employment after the end of the latest income tax year for which the obligor filed a return; ~~and providing;~~ and
- ~~a-3.~~ A verified copy of the latest income tax return, filed with the internal revenue service or any state official administering a state income tax, which accurately reports the obligor's income for a fiscal year ending no more than seventeen months prior to the date of the review; ~~or~~
- ~~b. A written authorization by which the child support agency may secure a verified copy of the latest income tax return filed with the tax commissioner, which accurately reports the obligor's income for a fiscal year ending no more than seventeen months prior to the date of review.~~
- ~~2. If the obligor has not produced information under subsection 1 concerning the obligor's income, sufficient to accomplish the review, the child support agency may base its review determination on the assumption that the obligor's income has increased at the rate of ten percent per year since the child support order under review was entered or last modified.~~

SECTION 5. AMENDMENT. Section 14-09-08.7 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.7. Notice of review determination.

- ~~1. Following review, the child support agency shall promptly provide written notice of its~~ review ~~determination on review. The notice may be sent by~~

first-class mail to the obligor and the obligee, at the addresses they have most recently provided to the child support agency.

2. If the child support agency has made a determination ~~that not to seek an~~ amendment to the amount of child support ~~should be sought~~, the notice must inform the obligor and the obligee of the right of each to challenge that determination by seeking an amendment to the amount of child support, from the court, at any time before the termination of the support order.
3. If the child support agency has made a determination to seek an amendment ~~into~~ the amount of child support, the notice ~~must be mailed at least thirty-five days before the date of a hearing on a motion for amendment made by the child support agency under section 14-09-08.4 and must inform the obligor and the obligee of the opportunity of each to consent to the proposed amendment and the right of each to challenge that determination by opposing that amendment before the court. The notice to the obligor must be accompanied by:~~
 - a. ~~A proposed modification of the child support order to provide for payment of child support in the amount required under the child support guidelines;~~
 - b. ~~A document by which the obligor may consent to the proposed modification; and~~
 - c. ~~An address and telephone number that the obligor may use to receive information from or schedule a meeting with representatives of the child support agency.~~

SECTION 6. AMENDMENT. Section 14-09-08.11 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.11. (Contingent effective date - See note) Eligible child - Employer to permit enrollment - Employer duties and liabilities - Obligor contest.

1. When an obligor is required to cover a child as a beneficiary under section 14-09-08.10, the child is eligible for health insurance coverage as a dependent of the obligor. If health insurance coverage required under section 14-09-08.10 is available through an employer, the employer must:
 - a. Permit the obligor to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions;
 - b. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the obligee;
 - c. Upon receipt of the national medical support notice issued under section 14-09-08.20:
 - (1) Comply with the provisions of the national medical support notice; and
 - (2) Transfer the national medical support notice to the insurer that provides any such health insurance coverage for which the child is eligible, within twenty business days after the date of the national medical support notice;

- d. Not disenroll or eliminate coverage for any child unless the employer has eliminated family health coverage for all of its employees or the employer is provided satisfactory written evidence that:
 - (1) The order issued under section 14-09-08.10 is no longer in effect; or
 - (2) The child is or will be enrolled in comparable coverage that will take effect no later than the effective date of disenrollment;
 - e. Withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage and pay this amount to the insurer;
 - f. If the amount required to be withheld under subdivision e, either alone or when added to the total of any withholding required by an order issued under section 14-09-09.15, exceeds fifty percent of the obligor's disposable income, withhold fifty percent of the obligor's disposable income;
 - g. In the case of an obligor contest under subsection 2, initiate and continue withholding until the employer receives notice that the contest is resolved; and
 - h. Promptly notify the child support agency, in the same manner as required under subsection 9 of section 14-09-09.16, whenever the obligor's employment is terminated.
2. The obligor may contest the withholding provided for in subdivision e of subsection 1 by filing a request for a hearing within ten days of the date of the national medical support notice issued under section 14-09-08.20. If the obligor contests that withholding, the court shall:
 - a. Hold a hearing within ten working days after the date of the request; and
 - b. Confirm the withholding in the absence of a finding:
 - (1) Of a mistake of fact; or
 - (2) That the obligee is required to provide health insurance coverage pursuant to section 14-09-08.10.
3. ~~Withholding~~The withholding provided in subdivision e of subsection 1 has priority over any other legal process against the same income except that 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 child support agency of the insufficiency.
 4. An employer receiving a national medical support notice under this section is subject to the same duties and liabilities as an income payer under section 14-09-09.3 unless the context indicates otherwise.

5. For purposes of this section:

- a. "Employer" means an entity or individual who would be determined to be an employer under section 3401(d) of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401(d)], and includes any governmental entity and any labor organization; and
- b. "Insurer" has the meaning provided in section 26.1-36.5-01.

(Contingent effective date - See note) Eligible child - Employer to permit enrollment - Employer duties and liabilities - Obligor contest.

1. When an obligor is required to cover a child as a beneficiary under section 14-09-08.10, the child is eligible for health insurance coverage as a dependent of the obligor. If health insurance coverage required under section 14-09-08.10 is available through an employer, the employer must:
 - a. Permit the obligor to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions;
 - b. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the obligee;
 - c. Upon receipt of the national medical support notice issued under section 14-09-08.20:
 - (1) Comply with the provisions of the national medical support notice; and
 - (2) Transfer the national medical support notice to the insurer that provides any such health insurance coverage for which the child is eligible, within twenty business days after the date of the national medical support notice;
 - d. Not disenroll or eliminate coverage for any child unless the employer has eliminated family health coverage for all of its employees or the employer is provided satisfactory written evidence that:
 - (1) The order issued under section 14-09-08.10 is no longer in effect; or
 - (2) The child is or will be enrolled in comparable coverage that will take effect no later than the effective date of disenrollment;
 - e. Withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage and pay this amount to the insurer;
 - f. If the amount required to be withheld under subdivision e, either alone or when added to the total of any withholding required by an order issued under section 14-09-09.15, exceeds fifty percent of the obligor's disposable income, withhold fifty percent of the obligor's disposable income;

- g. In the case of an obligor contest under subsection 2, initiate and continue withholding until the employer receives notice that the contest is resolved; and
 - h. Promptly notify the child support agency, in the same manner as required under subsection 9 of section 14-09-09.16, whenever the obligor's employment is terminated.
2. The obligor may contest the withholding provided for in subdivision e of subsection 1 by filing a request for a hearing within ten days of the date of the national medical support notice issued under section 14-09-08.20. If the obligor contests that withholding, the court shall:
 - a. Hold a hearing within ten working days after the date of the request; and
 - b. Confirm the withholding in the absence of a finding:
 - (1) Of a mistake of fact; or
 - (2) That the obligee is required to provide health insurance coverage pursuant to section 14-09-08.10.
 3. Unless otherwise provided by the child support agency in compliance with rules promulgated by the secretary of the United States department of health and human services, the withholding provided in subdivision e of subsection 1 has priority over any other legal process against the same income, except that 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 child support agency of the insufficiency.
 4. An employer receiving a national medical support notice under this section is subject to the same duties and liabilities as an income payer under section 14-09-09.3 unless the context indicates otherwise.
 5. For purposes of this section:
 - a. "Employer" means an entity or individual who would be determined to be an employer under section 3401(d) of the Internal Revenue Code of 1986, as amended [26 U.S.C. 3401(d)], and includes any governmental entity and any labor organization; and
 - b. "Insurer" has the meaning provided in section 26.1-36.5-01.

SECTION 7. AMENDMENT. Section 14-09-08.13 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.13. Application for service.

The child support agency shall take ~~necessary~~the appropriate steps to implement, modify, and enforce an order for dependent health insurance or other medical support whenever the children receive benefits through temporary assistance for needy families or foster care under chapter 50-09 or medical assistance under chapter

~~50-24.1, or upon whenever application of the obligee to the child support agency and payment by the obligee of any required application fees made and accepted for services provided by the child support agency.~~

SECTION 8. AMENDMENT. Section 14-09-09.30 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.30. Monthly amount due.

1. If there is a current monthly support obligation, the total amount of child support due in each month for purposes of income withholding is the sum of the obligor's current monthly support obligation; and
 - a. The amount the obligor is ordered to pay toward any outstanding arrearage; or
 - b. If no order to repay an arrearage exists, an amount for application to any arrearage equal to twenty percent of the obligor's current monthly support obligation; or
2. If there is no current monthly support obligation, the total amount of child support due in each month for purposes of income withholding is:
 - a. ~~An~~Unless either subdivision b or c applies, an amount equal to the greater of:
 - (1) The amount the obligor is ordered to pay toward any outstanding arrearage; or
 - (2) The sum of the obligor's most recent monthly support obligation and twenty percent of the obligor's most recent monthly support obligation;
 - b. An amount the obligor is ordered to pay toward an arrearage ~~during periods when~~ or, if no order to repay an arrearage exists, an amount equal to twenty percent of the obligor's most recent monthly support obligation, if the supported child resides with the obligor pursuant to a court order; or
 - c. An amount the obligor is ordered to pay toward an arrearage if that amount is included in an order issued when there is no current monthly support obligation.
3. The total amount of child support due in each month under this section for purposes of income withholding may be increased at the request of the obligor to repay an arrearage or by agreement with the child support agency.

SECTION 9. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Allocation of tax exemption for the child.

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 identify the person who is authorized to claim the child as a dependent for purposes of filing an income tax return.

⁹⁹ **SECTION 10. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

35-34-04. (Effective through July 31, 2015, or see note) Vessel lien.

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

(Effective after July 31, 2015, or see note) Vessel lien.

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

⁹⁹ Section 35-34-04 was also amended by section 1 of House Bill No. 1330, chapter 372.

¹⁰⁰ **SECTION 11. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

35-34-06. (Effective through July 31, 2015, or see note) Lien on other personal property.

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing a notice of lien with the office of the recorder in the county in which the personal property may be found, with the secretary of state, or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed with a recorder or with the secretary of state under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

(Effective after July 31, 2015, or see note) Lien on other personal property.

1. In the case of untitled personal property other than a vessel or an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien in the central indexing system or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

SECTION 12. AMENDMENT. Section 50-09-06.1 of the North Dakota Century Code is amended and reenacted as follows:

¹⁰⁰ Section 35-34-06 was also amended by section 1 of House Bill No. 1330, chapter 372.

50-09-06.1. Assignment of support rights.

An application under this chapter is deemed to create and effect an assignment of all rights to support, which a family member or foster child may have or come to have, to the state agency. The assignment:

1. Is effective as to all current ~~and accrued~~ support obligations and periods of eligibility;
2. Is effective as to all accrued support obligations with respect to a foster care child;
3. Is limited to the total cost of benefits provided to the family or foster child;
- ~~3.4.~~ Terminates when eligibility ceases, except with respect to any support obligation unpaid at that time; and
- ~~4.5.~~ Is not effective as to any child subject to a benefit cap imposed under section 50-09-29.

¹⁰¹ **SECTION 13. AMENDMENT.** Section 73 of chapter 152 of the 2009 Session Laws is amended and reenacted as follows:

SECTION 73. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the ~~date the department of human services certifies to the legislative council that the Hague convention on the international recovery of child support and other forms of family maintenance is ratified and that the United States deposited its instrument of ratification~~ July 1, 2015.

SECTION 14. REPEAL. Section 14-09-08.8 of the North Dakota Century Code is repealed.

SECTION 15. DEPARTMENT OF HUMAN SERVICES REPORT TO LEGISLATIVE MANAGEMENT. The department of human services shall provide a report to the legislative management before July 1, 2016, regarding the number of revoked obligor driver's licenses, the duration and effectiveness of revocations, including a comparison of the state's driver's license revocation with other rural states; and shall present a specific proposal that may limit the use of revocation of driver's licenses as a tool of enforcement.

¹⁰¹ Section 14-12.2-47.1 was also amended by section 1 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.2 was also amended by section 2 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.4 was also amended by section 3 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.5 was also amended by section 4 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.6 was also amended by section 5 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.7 was also amended by section 6 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.8 was also amended by section 7 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.9 was also amended by section 8 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.10 was also amended by section 9 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.11 was also amended by section 10 of Senate Bill No. 2053, chapter 62; section 14-12.2-47.13 was also amended by section 11 of Senate Bill No. 2053, chapter 62.

SECTION 16. EMERGENCY. Section 13 of this Act is declared to be an emergency measure.

Approved April 15, 2015

Filed April 15, 2015

CHAPTER 127

HOUSE BILL NO. 1029

(Legislative Management)
(Commission on Alternatives to Incarceration)

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to neglect of a child; to amend and reenact subdivision a of subsection 1 of section 12.1-32-15, section 14-09-22, paragraph 1 of subdivision d of subsection 3 of section 27-20-02, and subsection 3 of section 50-25.1-02 of the North Dakota Century Code, relating to abuse of a child; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰² **SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or ~~subdivision a of subsection 1 or subsection 2 of section 14-09-22~~, labor trafficking in violation of chapter 12.1-40, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt or conspiracy to commit these offenses.

SECTION 2. AMENDMENT. Section 14-09-22 of the North Dakota Century Code is amended and reenacted as follows:

14-09-22. Abuse or neglect of child - Penalty.

1. Except as provided in subsection 2 or 3, a parent, adult family or household member, guardian, or other custodian of any child, who willfully ~~commits any of the following offenses~~ inflicts or allows to be inflicted upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 is guilty of a class C felony except if the victim of an offense under ~~subdivision a~~ this section is under the age of six years in which case the offense is a class B felony:
 - a. ~~Inflicts, or allows to be inflicted, upon the child, bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04 or mental injury.~~
 - b. ~~Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.~~

¹⁰² Section 12.1-32-15 was also amended by section 1 of House Bill No. 1407, chapter 115, section 1 of Senate Bill No. 2107, chapter 117, and section 7 of Senate Bill No. 2215, chapter 96.

- e. ~~Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.~~
- d. ~~Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.~~
2. A person who provides care, supervision, education, or guidance for a child unaccompanied by the child's parent, adult family or household member, guardian, or custodian in exchange for money, goods, or other services and who while providing such services commits an offense under ~~subdivision a of subsection 1~~ this section is guilty of a class B felony. Any such person ~~who~~that commits, allows to be committed, or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20 is subject to the penalties provided in that chapter.
3. A person ~~who~~that commits an offense under ~~subdivision a of subsection 1~~this section is guilty of a class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years in which case the offense is a class A felony.

SECTION 3. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Neglect of child - Penalty.

A parent, adult family or household member, guardian, or other custodian of any child, who willfully commits any of the following offenses is guilty of a class C felony:

1. Fails to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals.
2. Permits the child to be, or fails to exercise reasonable diligence in preventing the child from being, in a disreputable place or associating with vagrants or vicious or immoral persons.
3. Permits the child to engage in, or fails to exercise reasonable diligence in preventing the child from engaging in, an occupation forbidden by the laws of this state or an occupation injurious to the child's health or morals or the health or morals of others.

¹⁰³ **SECTION 4. AMENDMENT.** Paragraph 1 of subdivision d of subsection 3 of section 27-20-02 of the North Dakota Century Code is amended and reenacted as follows:

- (1) A violation of section 12.1-16-01, 12.1-16-02, ~~or~~ 12.1-16-03, or ~~subdivision a of subsection 1 of section 14-09-22~~ in which the victim is another child of the parent;

¹⁰³ Section 27-20-02 was also amended by section 4 of House Bill No. 1186, chapter 111, section 2 of House Bill No. 1347, chapter 112, and section 1 of Senate Bill No. 2064, chapter 229.

SECTION 5. AMENDMENT. Subsection 3 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in ~~subdivision a of subsection 1 of section 14-09-22~~ caused by a person responsible for the child's welfare and "sexually abused child" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual who acts in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2.

Approved March 20, 2015

Filed March 20, 2015

CHAPTER 128

HOUSE BILL NO. 1314

(Representatives Delmore, Hawken, Maragos)
(Senators Luick, Nelson, Oban)

AN ACT to amend and reenact section 14-10-17.1 of the North Dakota Century Code, relating to consent for emergency medical care for a minor who has been sexually assaulted.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-10-17.1 of the North Dakota Century Code is amended and reenacted as follows:

14-10-17.1. Minor's emergency care.

1. A minor may contract for and receive emergency examination, care, or treatment in a life-threatening situation without the consent of the minor's parent or guardian. If a minor has an emergency medical condition or the potential for an emergency medical condition, consent to emergency examination, care, or treatment of the minor is implied if reasonable steps to contact the minor's parent or guardian are unsuccessful. This ~~section~~subsection does not authorize a minor to withhold consent to emergency examination, care, or treatment.
2. A physician or other health care provider may provide emergency medical care or forensic services to a minor who is a victim of sexual assault without the consent of the minor's parent or guardian. Reasonable steps must be made to notify the minor's parent or guardian of the care provided.

Approved April 2, 2015
Filed April 2, 2015