

SENATE BILL NO. 2132

Introduced by

Senators Kreun, Poolman, K. Roers, Vedaa

Representatives Ista, O'Brien

1 A BILL for an Act to amend and reenact section 14-09-09.38 of the North Dakota Century Code,
2 relating to suspending a child support obligation of an incarcerated parent.

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

4 **SECTION 1. AMENDMENT.** Section 14-09-09.38 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-09-09.38. Child support obligation of incarcerated parents.**

- 7 1. A monthly support obligation established under any provision of this code and in effect
8 after December 31, 2017, ~~expires~~ suspended by operation of law upon incarceration,
9 and until sixty days after release, of the obligor under a sentence of one hundred
10 eighty days or longer, excluding credit for time served before sentencing. The
11 obligation recommences sixty days after the obligor is released from incarceration and
12 remains at the same amount as set at the time of the obligation's suspension unless
13 modified by the court upon motion of the obligor.
- 14 2. Notwithstanding subsection 1, a monthly support obligation may be established for an
15 obligor ~~who~~ is incarcerated under a sentence of one hundred eighty days or longer if
16 the obligation is based on actual income of the obligor and the moving party makes a
17 prima facie showing that the obligor's income exceeds the minimum amount provided
18 in the guidelines established under section 14-09-09.7.
- 19 3. As used in this section, "incarceration" means placement of an obligor in a custodial
20 setting in which the obligor is not permitted to earn wages from employment outside
21 the correctional facility, and does not include probation or work release.
- 22 4. The ~~expiration~~ suspension of a monthly support obligation under subsection 1 does not
23 affect any past-due support ~~that is owed before the expiration~~ suspension of the
24 obligation.