

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~~the 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~~is ~~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.

1 5. The child support agency shall notify the obligor and obligee of the expiration of a
2 monthly support obligation under this section, including a description of how the
3 obligation can be re-established after the obligor is released from incarceration.

4 6. If a monthly support obligation has expired under this section and is still being
5 enforced by the child support agency when the obligor is released from incarceration,
6 the child support agency shall re-establish a monthly support obligation as provided in
7 this chapter without requiring a request or application for services.