

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED 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 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 by operation of law upon incarceration of the obligor
9 under a sentence of one hundred eighty days or longer, excluding credit for time
10 served before sentencing.

11 2. Notwithstanding subsection 1, a monthly support obligation may be established for an
12 obligor ~~who is~~ incarcerated under a sentence of one hundred eighty days or longer if
13 the obligation is based on actual income of the obligor and the moving party makes a
14 prima facie showing ~~that~~ the obligor's income exceeds the minimum amount provided
15 in the guidelines established under section 14-09-09.7.

16 3. As used in this section, "incarceration" means placement of an obligor in a custodial
17 setting in which the obligor is not permitted to earn wages from employment outside
18 the correctional facility, and does not include probation or work release.

19 4. The expiration of a monthly support obligation under subsection 1 does not affect any
20 past-due support ~~that is~~ owed before the expiration of the obligation.

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

- 1 6. If a monthly support obligation has expired under this section and the child support
- 2 case is still open with the child support agency when the obligor is released from
- 3 incarceration, the child support agency shall re-establish a monthly support obligation
- 4 as provided in this chapter without requiring a request or application for services.