

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact sections 14-08.1-08, 14-09-08.1, 14-09-08.2,
2 14-09-09.29, and 14-09-26 and subsection 2 of section 50-09-02.1 of the North Dakota Century
3 Code, relating to clerk of court responsibilities regarding child support.

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

5 **SECTION 1. AMENDMENT.** Section 14-08.1-08 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **14-08.1-08. Certification of records.**

8 ~~The clerk of court and any~~An authorized agent of the child support agency, in any
9 circumstance or proceeding requiring proof of the contents of the official records of the state
10 regarding any information maintained in the state case registry of the automated data
11 processing system established under section 50-09-02.1, may certify the content of those
12 records. A certification provided under this section is prima facie evidence of the contents of
13 those records.

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

16 **14-09-08.1. Support payments - Payment to state disbursement unit - Transfer of**
17 **proceedings for enforcement of decree - Procedures upon failure to pay.**

18 1. In any action in which a court orders that payments for child support be made, the
19 court shall provide in its order that the payments be paid to the state disbursement unit
20 for remittance to the obligee.

21 2. a. Each party subject to the order shall immediately inform the state disbursement
22 unit of the party's:

23 (1) Social security number;

24 (2) Residential and mailing addresses and any change of address;

- 1 (3) Telephone number;
- 2 (4) Motor vehicle operator's license number;
- 3 (5) Employer's name, address, and telephone number;
- 4 (6) Electronic mail address; and
- 5 (7) Change of any other condition which may affect the proper administration of
- 6 this chapter.
- 7 b. Each order for payment of child support must notify each party of the
- 8 requirements in subdivision a and require the party to provide the information
- 9 within ten days from the date of the order or ten days after any change in the
- 10 information.
- 11 c. In any subsequent child support enforcement or modification action between the
- 12 parties, upon sufficient showing that diligent effort has been made to ascertain
- 13 the location of a party, the court shall deem due process requirements for notice
- 14 and service to have been met, with respect to the noticed party, by delivery of
- 15 written notice to the most recent residential or employer address provided by the
- 16 noticed party pursuant to this subsection.
- 17 d. The requirements of this subsection continue in effect until all child support
- 18 obligations have been satisfied with respect to each child subject to the order.
- 19 3. Whenever there is failure to make the payments as required, the clerk of court ~~may,~~
- 20 ~~and~~ upon request of the obligee or child support agency, shall, send notice of the
- 21 arrears by first-class mail, with affidavit of service, to the person required to make the
- 22 payments, or request a district judge of the judicial district to issue a citation for
- 23 contempt of court against the person who has failed to make the payments. The
- 24 citation may be served on that person by first-class mail with affidavit of service to the
- 25 person's last-known address.
- 26 4. The court of its own motion or on motion of the child support agency or the state's
- 27 attorney of the county of venue, the county of the recipient's residence, or the county
- 28 of the obligor's residence may cause a ~~certified copy of any~~ support order in the action
- 29 to be transcribed and filed with the clerk of the district court of any county in this state
- 30 in which the obligee or the obligor may reside from time to time. Thereafter, this
- 31 section applies as if the support order were issued by the district court of the county to

1 which the support order is transcribed. No fee may be charged for transcribing or filing
2 a certified copy of any support order under this section.

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

5 **14-09-08.2. Support for children after majority - Retroactive application.**

- 6 1. A judgment or order requiring the payment of child support until the child attains
7 majority continues as to the child until the end of the month during which the child is
8 graduated from high school or attains the age of nineteen years, whichever occurs
9 first, if:
- 10 a. The child is enrolled and attending high school and is eighteen years of age ~~prior-~~
11 ~~to~~before the date the child is expected to be graduated; and
- 12 b. The child resides with the person to whom the duty of support is owed.
- 13 2. A judgment or order may require payment of child support after majority under
14 substantially the circumstances described in subsection 1.
- 15 3. The person to whom the duty of support is owed under either subsection 1 or 2 may
16 file an affidavit with the district court and provide a copy to the child support agency
17 stating that the requirements of subsection 1 are met, the school in which the child is
18 enrolled, and the anticipated date of the child's graduation. Upon filing of the affidavit,
19 the child support resumes pursuant to subsection 1 or pursuant to the terms of a
20 judgment or order described in subsection 2. A fee may not be charged for filing such
21 an affidavit.
- 22 4. ~~The clerk of court~~child support agency shall serve the affidavit by first-class mail upon
23 the person owing the duty of support. If at any time thereafter the person owing the
24 duty of support files a motion with the court, supported by that person's affidavit that
25 the child is no longer enrolled in or attending high school or is no longer residing with
26 the person to whom the duty of support is owed, the court shall determine if the child is
27 enrolled in and attending high school and residing with the person to whom the duty of
28 support is owed and shall enter an order accordingly.
- 29 5. This section applies to child support orders concerning children described in
30 subsection 1 or 2, regardless of the date of entry of the order.

1 6. This section does not preclude the entry of an order for child support which continues
2 after the child reaches age eighteen, if the parties agree, or if the court determines the
3 support to be appropriate.

4 7. For purposes of this section:

5 a. A child is treated as being in school during summer vacation if the child was
6 enrolled in and attending school and did not graduate from high school at the end
7 of the school period immediately preceding the summer vacation; and

8 b. A child who is currently enrolled in school is not considered to have graduated,
9 even if all required coursework and examinations have been completed, until the
10 ceremony is held by the school to commemorate the child's graduation.

11 **SECTION 4. AMENDMENT.** Section 14-09-09.29 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **14-09-09.29. Coordination of income withholding activities and child support case**
14 **management.**

15 The child support agency ~~shall assume responsibility~~ is responsible for administration of
16 income withholding, managing accrual and termination dates and payment ledger adjustments
17 on the automated system established under section 50-09-02.1, and the receipt and
18 disbursement of child support payments. This section also applies to an order that does not
19 require the payment of child support but requires the payment of spousal support, if the court
20 orders the spousal support be paid through the state disbursement unit or be enforced through
21 income withholding.

22 **SECTION 5. AMENDMENT.** Section 14-09-26 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **14-09-26. Modification of existing child support orders.**

25 1. A child support order issued under any provision of this code and in effect on
26 October 1, 1998, is deemed to require payment to the state disbursement unit after
27 September 30, 1998.

28 2. A child support order issued under any provision of this code after September 30,
29 1998, must require payment to the state disbursement unit.

30 3. ~~A payment of child support received by a clerk of court after September 30, 1998, is~~
31 ~~deemed to be a payment to the state disbursement unit. A clerk of court receiving such~~

1 child support payment after September 30, 1998, shall promptly remit or transfer that
2 payment to the state disbursement unit.

3 **SECTION 6. AMENDMENT.** Subsection 2 of section 50-09-02.1 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 2. The state agency shall establish a statewide automated data processing system
6 designed to conform to requirements imposed by or under title IV-D. ~~The state agency~~
7 ~~must make that system available for the use of clerks of court in carrying out their~~
8 ~~duties under section 14-09-08.1.~~ The official records of the state regarding all child
9 support amounts owed, collected, and distributed must be maintained in that system.
10 Notwithstanding section 14-08.1-05, any record of a child support obligation that is
11 currently being enforced in another jurisdiction and not by a child support agency, that
12 is owed by an obligor who is deceased, or that is owed to a deceased obligee for
13 whom disbursement of any collections could not occur under section 14-09-25, may
14 be removed indefinitely from the statewide automated data processing system until a
15 request is received from a party to the child support case to restore those records.