

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2115

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 14-08.1-04, subsection 2 of section 14-09-08.1,
2 subsection 4 of section 14-09-08.4, section 14-09-09.32, subsection 8 of section 14-09-25,
3 section 34-15-07, and subsection 6 of section 50-09-08.6 of the North Dakota Century Code,
4 relating to child support; to repeal section 14-09-09.37 of the North Dakota Century Code,
5 relating to child support; and to provide a continuing appropriation.

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

7 **SECTION 1. AMENDMENT.** Section 14-08.1-04 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **14-08.1-04. Duty of ~~state's attorney~~ child support agency - Sheriff's fees.**

10 ~~Upon request of the county social service board director or the executive director of the~~
11 ~~department of human services, the state's attorney of any county furnishing public assistance or~~
12 ~~county general assistance~~The child support agency shall commence any appropriate action or
13 proceeding under sections 14-08.1-02 and 14-08.1-03, ~~in which case fees for filing and~~ Except
14 for public assistance cases as determined by the child support agency, a sheriff may charge
15 and collect service of process may not be charged or collectedfees consistent with section
16 11-15-07.

17 **SECTION 2. AMENDMENT.** Subsection 2 of section 14-09-08.1 of the North Dakota
18 Century Code is amended and reenacted as follows:

- 19 2. a. Each party subject to the order shall immediately inform the state disbursement
20 unit of the party's:
21 (1) Social security number;
22 (2) Residential and mailing addresses and any change of address;
23 (3) Telephone number, including cellular telephone number;
24 (4) Motor vehicle operator's license number;

- 1 (5) Employer's name, address, and telephone number;
- 2 (6) Electronic mail address; and
- 3 ~~(6)~~(7) Change of any other condition which may affect the proper administration of
- 4 this chapter.
- 5 b. Each order for payment of child support must notify each party of the
- 6 requirements in subdivision a and require the party to provide the information
- 7 within ten days from the date of the order or ten days after any change in the
- 8 information.
- 9 c. In any subsequent child support enforcement or modification action between the
- 10 parties, upon sufficient showing that diligent effort has been made to ascertain
- 11 the location of a party, the court shall deem due process requirements for notice
- 12 and service to have been met, with respect to the noticed party, by delivery of
- 13 written notice to the most recent residential or employer address provided by the
- 14 noticed party pursuant to this subsection.
- 15 d. The requirements of this subsection continue in effect until all child support
- 16 obligations have been satisfied with respect to each child subject to the order.

17 **SECTION 3. AMENDMENT.** Subsection 4 of section 14-09-08.4 of the North Dakota

18 Century Code is amended and reenacted as follows:

- 19 4. If a child support ~~order~~obligation sought to be amended was entered at least one year
- 20 before the filing of a motion or petition for amendment, the court shall order the
- 21 amendment of the child support ~~order~~obligation to conform the amount of child support
- 22 payment to that required under the child support guidelines, whether or not the motion
- 23 or petition for amendment arises out of a periodic review of a child support
- 24 ~~order~~obligation, and whether or not a material change of circumstances has taken
- 25 place, unless the presumption that the correct amount of child support would result
- 26 from the application of the child support guidelines is rebutted. If a motion or petition
- 27 for amendment is filed within one year of the entry of the ~~order~~obligation sought to be
- 28 amended, the party seeking amendment must also show a material change of
- 29 circumstances.

30 **SECTION 4. AMENDMENT.** Section 14-09-09.32 of the North Dakota Century Code is

31 amended and reenacted as follows:

1 **14-09-09.32. Agreements to waive child support.**

2 1. An agreement purporting to relieve an obligor of any current or future duty of child
3 support is void and may not be enforced. An agreement purporting to waive past-due
4 child support is void and may not be enforced unless the child support obligee and any
5 assignee of the obligee have consented to the agreement in writing and the
6 agreement has been approved by a court of competent jurisdiction. A copy of the order
7 of approval must be provided to the state disbursement unit. As used in this section,
8 "child support" does not include spousal support.

9 2. In a judgment for divorce or other relief under this title in any matter in which the child
10 and both of the child's parents do not reside together, a court shall establish a child
11 support obligation unless the child support agency requests the issue of child support
12 be reserved. Notwithstanding subsection 1, the court may issue a stay of any further
13 accruals under a child support order if the court finds the stay would be in the best
14 interests of the child. Avoidance of income withholding or the requirement to make any
15 child support payment through the state disbursement unit is not a proper basis to stay
16 a child support obligation under this subsection. A child support obligation that is
17 stayed under this subsection may be reinstated on a prospective basis as provided
18 under the terms of the stay or at any time by order of the court or upon affidavit of any
19 party. The party filing the affidavit shall provide a copy of the affidavit to any other party
20 to the action and to the state disbursement unit.

21 **SECTION 5. AMENDMENT.** Subsection 8 of section 14-09-25 of the North Dakota Century
22 Code is amended and reenacted as follows:

23 8. The child support agency may suspend or waive judgment interest on an arrearage as
24 part of an amnesty program, as an incentive for satisfying a child support obligation or
25 complying with a payment plan, or if the child support agency determines that the
26 judgment interest is not collectible through commercially reasonable efforts. This
27 subsection applies to judgment interest accruing before July 1, 2005, only if the
28 arrearage is assigned to the child support agency under section 50-09-06.1 or
29 50-24.1-02.1 or if the obligee provides written consent. Any judgment interest that is
30 suspended or waived under this subsection may be reinstated by ~~a court at any time~~
31 ~~or~~ by the child support agency if the obligor has failed to comply with a payment plan.

1 **SECTION 6. AMENDMENT.** Section 34-15-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **34-15-07. Disposition of civil money penalties - Continuing appropriation.**

4 A civil money penalty collected under this chapter must be paid into the state treasury for
5 ~~deposit in the general fund~~ and is appropriated to the department on a continuing basis for the
6 purpose of covering losses the department incurs in making child support disbursements as
7 provided under section 14-09-25.

8 **SECTION 7. AMENDMENT.** Subsection 6 of section 50-09-08.6 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 6. In a contest under this section, the court ~~must~~shall affirm the action of the state
11 agency to withhold, restrict, or suspend a license unless ~~it~~the court finds that the
12 licensee's delinquency or failure to comply with a subpoena, or an existing payment
13 plan was not willful. ~~Upon a showing by the state agency that the licensee has failed to~~
14 ~~comply with a subpoena, is listed on the arrears registry, or is not in compliance with~~
15 ~~an existing payment plan between the licensee and the state agency under this~~
16 ~~section, the licensee has the burden of proving that the delinquency or failure to~~
17 ~~comply was not willful~~state agency's decisions was arbitrary, unreasonable, or
18 capricious.

19 **SECTION 8. REPEAL.** Section 14-09-09.37 of the North Dakota Century Code is repealed.