

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2132
(Senators Kreun, Poolman, K. Roers, Vedaa)
(Representatives Ista, O'Brien)

AN ACT to amend and reenact section 14-09-09.38 of the North Dakota Century Code, relating to the child support obligation of an incarcerated parent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A monthly support obligation established under any provision of this code and in effect after December 31, 2017, expires by operation of law upon incarceration of the obligor under a sentence of one hundred eighty days or longer, excluding credit for time served before sentencing.
2. Notwithstanding subsection 1, a monthly support obligation may be established for an obligor ~~who is~~ incarcerated under a sentence of one hundred eighty days or longer if the obligation is based on actual income of the obligor and the moving party makes a prima facie showing that the obligor's income exceeds the minimum amount provided in the guidelines established under section 14-09-09.7.
3. As used in this section, "incarceration" means placement of an obligor in a custodial setting in which the obligor is not permitted to earn wages from employment outside the correctional facility, and does not include probation or work release.
4. The expiration of a monthly support obligation under subsection 1 does not affect any past-due support ~~that is~~ owed before the expiration of the obligation.
5. The child support agency shall notify the obligor and obligee of the expiration of a monthly support obligation under this section, including a description of how the obligation can be re-established after the obligor is released from incarceration.
6. If a monthly support obligation has expired under this section and the child support case is still open with the child support agency when the obligor is released from incarceration, the child support agency shall re-establish a monthly support obligation as provided in this chapter without requiring a request or application for services.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2132.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 89 Nays 1 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State