

HOUSE BILL NO. 1121

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 14-09-08.1 and 14-09-09.29 of the North
2 Dakota Century Code, relating to notice procedures, procedures upon failure to pay child
3 support, and coordination of income withholding services; to provide an effective date; and to
4 declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 14-09-08.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **14-09-08.1. (Effective through June 30, 1999) Support payments - Payment to**
9 **court or state disbursement unit - Transfer of proceedings for enforcement of decree -**
10 **Procedures upon failure to pay.**

11 1. In any action in which a court orders that payments for child support be made, the
12 court shall provide in its order that the payments be paid to the clerk of court, as
13 trustee, or to the public authority, for remittance to the obligee. The clerk shall
14 maintain records listing the amount of the payments, the date when the payments
15 must be made, the names and addresses of the parties subject to the order, and
16 any other information necessary for the proper administration of the order in the
17 statewide automated data processing system established under section
18 50-09-02.1. Before the system implementation date, upon notification that a party
19 to the case is receiving services under title IV-D of the Social Security Act
20 [42 U.S.C. 651 et seq.], or an assignment of support rights is in effect, the clerk of
21 court must credit and transmit payments in conformity with title IV-D of the Social
22 Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq., as amended].

23 2. a. Each party subject to the order shall immediately inform the clerk of court and
24 the public authority of the party's:

- 1 (1) Social security number;
- 2 (2) Residential and mailing addresses and any change of address;
- 3 (3) Telephone number;
- 4 (4) Motor vehicle operator's license number;
- 5 (5) Employer's name, address, and telephone number; and
- 6 (6) Change of any other condition which may affect the proper
- 7 administration of this chapter.
- 8 b. The requirements of subdivision a must be incorporated into each order for
- 9 payment of child support.
- 10 c. In any subsequent child support enforcement action between the parties,
- 11 upon sufficient showing that diligent effort has been made to ascertain the
- 12 location of a party, service may be effected by delivery of written notice to the
- 13 most recent residential or employer address provided by the noticed party
- 14 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 3. Whenever there is failure to make the payments as required, the clerk shall send
- 18 notice of the arrears by first-class mail, with affidavit of service, to the person
- 19 required to make the payments, or request a district judge of the judicial district, on
- 20 a form provided by the judge, to issue a citation for contempt of court against the
- 21 person who has failed to make the payments and the citation must be served on
- 22 that person as provided by the North Dakota Rules of Civil Procedure.
- 23 4. The court of its own motion or on motion of a child support agency or the state's
- 24 attorney of the county of venue, the county of the recipient's residence, or the
- 25 county of the obligor's residence may cause a certified copy of any support order in
- 26 the action to be transcribed and filed with the clerk of the district court of any
- 27 county in this state in which the obligee or the obligor may reside from time to time.
- 28 Thereafter, this section applies as if the support order were issued by the district
- 29 court of the county to which the support order is transcribed. No fee may be
- 30 charged for transcribing or filing a certified copy of any support order under this
- 31 section.

1 5. The clerk of court, at the option of the clerk, may deposit payments received by the
2 clerk under this section, and not required to be paid to the state disbursement unit,
3 in a special trust account in either the Bank of North Dakota or in a banking
4 institution of this state designated as a depository of public funds under chapter
5 21-04 and make payments from the trust account to the obligee or the clerk may
6 deposit payments received by the clerk under this section with the county treasurer
7 and direct their disbursement under chapter 11-14.

8 **(Effective July 1, 1999) Support payments - Payment to state disbursement unit -**
9 **Transfer of proceedings for enforcement of decree - Procedures upon failure to pay.**

- 10 1. In any action in which a court orders that payments for child support be made, the
11 court shall provide in its order that the payments be paid to the state disbursement
12 unit for remittance to the obligee.
- 13 2. a. Each party subject to the order shall immediately inform the state
14 disbursement unit of the party's:
- 15 (1) Social security number;
- 16 (2) Residential and mailing addresses and any change of address;
- 17 (3) Telephone number;
- 18 (4) Motor vehicle operator's license number;
- 19 (5) Employer's name, address, and telephone number; and
- 20 (6) Change of any other condition which may affect the proper
21 administration of this chapter.
- 22 b. The requirements of subdivision a must be incorporated into each order for
23 payment of child support.
- 24 c. In any subsequent child support enforcement action between the parties,
25 upon sufficient showing that diligent effort has been made to ascertain the
26 location of a party, ~~service may be effected~~ the court shall deem due process
27 requirements for notice and service to have been met, with respect to the
28 noticed party, by delivery of written notice to the most recent residential or
29 employer address provided by the noticed party pursuant to this subsection.
- 30 d. The requirements of this subsection continue in effect until all child support
31 obligations have been satisfied with respect to each child subject to the order.

1 3. Whenever there is failure to make the payments as required, the ~~state~~
2 ~~disbursement unit~~ clerk of court shall send notice of the arrears by first-class mail,
3 with affidavit of service, to the person required to make the payments, or request a
4 district judge of the judicial district, ~~on a form provided by the judge,~~ to issue a
5 citation for contempt of court against the person who has failed to make the
6 payments and the citation must be served on that person as provided by the North
7 Dakota Rules of Civil Procedure.

8 4. The court of its own motion or on motion of a child support agency or the state's
9 attorney of the county of venue, the county of the recipient's residence, or the
10 county of the obligor's residence may cause a certified copy of any support order in
11 the action to be transcribed and filed with the clerk of the district court of any
12 county in this state in which the obligee or the obligor may reside from time to time.
13 Thereafter, this section applies as if the support order were issued by the district
14 court of the county to which the support order is transcribed. No fee may be
15 charged for transcribing or filing a certified copy of any support order under this
16 section.

17 **SECTION 2. AMENDMENT.** Section 14-09-09.29 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **14-09-09.29. (Effective July 1, 1999) Coordination of income withholding**
20 **activities.** The public authority shall assume responsibility for administration of income
21 withholding orders relating to matters being enforced under title IV-D of the Social Security Act
22 [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651] and the receipt and disbursement of child
23 support payments made pursuant to an income withholding order. The clerks of court shall
24 otherwise maintain responsibility for administration of income withholding.

25 **SECTION 3. EFFECTIVE DATE.** This Act becomes effective on July 1, 1999.

26 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.