

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED 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 section 14-09-08.1, subsection 9 of section
2 14-09-09.16, and section 14-09-09.29 of the North Dakota Century Code, relating to notice
3 procedures, procedures upon failure to pay child support, and coordination of income
4 withholding services; to provide an effective date; to provide an expiration date; and to declare
5 an emergency.

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

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

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

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

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

1 charged for transcribing or filing a certified copy of any support order under this
2 section.

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

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

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

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

- 17 (1) Social security number;
18 (2) Residential and mailing addresses and any change of address;
19 (3) Telephone number;
20 (4) Motor vehicle operator's license number;
21 (5) Employer's name, address, and telephone number; and
22 (6) Change of any other condition which may affect the proper
23 administration of this chapter.

24 b. The requirements of subdivision a must be incorporated into each order for
25 payment of child support.

26 c. In any subsequent child support enforcement action between the parties,
27 upon sufficient showing that diligent effort has been made to ascertain the
28 location of a party, ~~service may be effected~~ the court shall deem due process
29 requirements for notice and service to have been met, with respect to the
30 noticed party, by delivery of written notice to the most recent residential or
31 employer address provided by the noticed party pursuant to this subsection.

- 1 d. The requirements of this subsection continue in effect until all child support
2 obligations have been satisfied with respect to each child subject to the order.
- 3 3. Whenever there is failure to make the payments as required, the ~~state~~
4 ~~disbursement unit~~ clerk of court shall send notice of the arrears by first-class mail,
5 with affidavit of service, to the person required to make the payments, or request a
6 district judge of the judicial district, ~~on a form provided by the judge,~~ to issue a
7 citation for contempt of court against the person who has failed to make the
8 payments and the citation must be served on that person as provided by the North
9 Dakota Rules of Civil Procedure.
- 10 4. The court of its own motion or on motion of a child support agency or the state's
11 attorney of the county of venue, the county of the recipient's residence, or the
12 county of the obligor's residence may cause a certified copy of any support order in
13 the action to be transcribed and filed with the clerk of the district court of any
14 county in this state in which the obligee or the obligor may reside from time to time.
15 Thereafter, this section applies as if the support order were issued by the district
16 court of the county to which the support order is transcribed. No fee may be
17 charged for transcribing or filing a certified copy of any support order under this
18 section.

19 **SECTION 2. AMENDMENT.** If Senate Bill No. 2170 is approved by the fifty-sixth
20 legislative assembly and becomes effective, subsection 9 of section 14-09-09.16 of the North
21 Dakota Century Code as amended by section 7 of Senate Bill No. 2170 is amended and
22 reenacted as follows:

- 23 9. The income payor shall notify the clerk of court or the public authority in writing of
24 the termination of a duty to pay income to the obligor within seven business days
25 of the termination. The notification must include the name and address of the
26 obligor's subsequent income payor, if known.

27 **SECTION 3. AMENDMENT.** Section 14-09-09.29 of the North Dakota Century Code is
28 amended and reenacted as follows:

- 29 **14-09-09.29. (Effective July 1, 1999) Coordination of income withholding**
30 **activities.** The public authority shall assume responsibility for administration of income
31 withholding orders relating to matters being enforced under title IV-D of the Social Security Act

1 [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651] and the receipt and disbursement of child
2 support payments. The clerks of court shall otherwise maintain responsibility for administration
3 of income withholding.

4 **SECTION 4. EFFECTIVE DATE.** Sections 1 and 3 of this Act become effective on
5 July 1, 1999.

6 **SECTION 5. EXPIRATION DATE.** Section 3 of this Act is effective through July 31,
7 2001, and after that date is ineffective. Section 14-09-09.29 as it existed on the day before the
8 effective date of this Act becomes effective August 1, 2001.

9 **SECTION 6. EMERGENCY.** Sections 1 and 3 of this Act are declared to be an
10 emergency measure.