

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

HOUSE BILL NO. 1121
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact section 14-09-08.1, subsection 9 of section 14-09-09.16, and section 14-09-09.29 of the North Dakota Century Code, relating to notice procedures, procedures upon failure to pay child support, and coordination of income withholding services; to provide for a report to the legislative council; to provide an effective date; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. In any action in which a court orders that payments for child support be made, the court shall provide in its order that the payments be paid to the clerk of court, as trustee, or to the public authority, for remittance to the obligee. The clerk shall maintain records listing the amount of the payments, the date when the payments must be made, the names and addresses of the parties subject to the order, and any other information necessary for the proper administration of the order in the statewide automated data processing system established under section 50-09-02.1. Before the system implementation date, upon notification that a party to the case is receiving services under title IV-D of the Social Security Act [42 U.S.C. 651 et seq.], or an assignment of support rights is in effect, the clerk of court must credit and transmit payments in conformity with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq., as amended].
2.
 - a. Each party subject to the order shall immediately inform the clerk of court and the public authority of the party's:
 - (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number; and
 - (6) Change of any other condition which may affect the proper administration of this chapter.
 - b. The requirements of subdivision a must be incorporated into each order for payment of child support.
 - c. In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, service may be effected by delivery of written notice to the most recent

residential or employer address provided by the noticed party pursuant to this subsection.

- d. The requirements of this subsection continue in effect until all child support obligations have been satisfied with respect to each child subject to the order.
3. Whenever there is failure to make the payments as required, the clerk shall send notice of the arrears by first-class mail, with affidavit of service, to the person required to make the payments, or request a district judge of the judicial district, on a form provided by the judge, to issue a citation for contempt of court against the person who has failed to make the payments and the citation must be served on that person as provided by the North Dakota Rules of Civil Procedure.
4. The court of its own motion or on motion of a child support agency or the state's attorney of the county of venue, the county of the recipient's residence, or the county of the obligor's residence may cause a certified copy of any support order in the action to be transcribed and filed with the clerk of the district court of any county in this state in which the obligee or the obligor may reside from time to time. Thereafter, this section applies as if the support order were issued by the district court of the county to which the support order is transcribed. No fee may be charged for transcribing or filing a certified copy of any support order under this section.
5. The clerk of court, at the option of the clerk, may deposit payments received by the clerk under this section, and not required to be paid to the state disbursement unit, in a special trust account in either the Bank of North Dakota or in a banking institution of this state designated as a depository of public funds under chapter 21-04 and make payments from the trust account to the obligee or the clerk may deposit payments received by the clerk under this section with the county treasurer and direct their disbursement under chapter 11-14.

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

1. In any action in which a court orders that payments for child support be made, the court shall provide in its order that the payments be paid to the state disbursement unit for remittance to the obligee.
2. a. Each party subject to the order shall immediately inform the state disbursement unit of the party's:
 - (1) Social security number;
 - (2) Residential and mailing addresses and any change of address;
 - (3) Telephone number;
 - (4) Motor vehicle operator's license number;
 - (5) Employer's name, address, and telephone number; and
 - (6) Change of any other condition which may affect the proper administration of this chapter.
- b. The requirements of subdivision a must be incorporated into each order for payment of child support.
- c. In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, service may be effected the court shall deem due process requirements for notice and service to have been met, with respect to the noticed party, by delivery of

written notice to the most recent residential or employer address provided by the noticed party pursuant to this subsection.

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

SECTION 2. AMENDMENT. If Senate Bill No. 2170 is approved by the fifty-sixth legislative assembly and becomes effective, subsection 9 of section 14-09-09.16 of the North Dakota Century Code as amended by section 8 of Senate Bill No. 2170 is amended and reenacted as follows:

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

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

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

SECTION 4. REPORT TO LEGISLATIVE COUNCIL. The department of human services shall report on the progress of the implementation of this Act to a designated legislative council interim committee between August 1, 2000, and August 31, 2000.

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

SECTION 6. EXPIRATION DATE. Section 3 of this Act is effective through January 15, 2001, and after that date is ineffective. Section 14-09-09.29 as it existed on the day before the effective date of this Act becomes effective January 16, 2001.

SECTION 7. EMERGENCY. Sections 1 and 3 of this Act are declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1121 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 97 Nays 1 Absent 0

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State