

SENATE BILL NO. 2289

Introduced by

Senators Fischer, Heitkamp, J. Lee

Representatives Devlin, Kasper, Koppelman

1 A BILL for an Act to create and enact a new subdivision to subsection 1 of section 14-09-09.7 of
2 the North Dakota Century Code, relating to child support guidelines; to amend and reenact
3 sections 14-08.1-06 and 14-08.1-07, subsection 2 of section 14-09-08.5, section 14-09-08.6,
4 subsection 2 of section 14-09-08.8, subsections 1 and 2 of section 14-09-08.16, and
5 subsections 8 and 9 of section 14-09-09.10 of the North Dakota Century Code, relating to child
6 support reviews; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 14-08.1-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **14-08.1-06. Suspension of occupational, professional, or recreational license for**
11 **nonpayment of child support or failure to obey subpoena.** When considering a contempt
12 citation against a ~~child support obligor~~ parent who is in arrears in child support in an amount
13 greater than three times the monthly child support obligation and ~~the obligor who~~ is not current
14 in a court-established plan to repay the unpaid child support arrears, or a parent who has failed,
15 after receiving appropriate notice, to comply with a subpoena relating to a paternity or child
16 support matter, the court shall address and make specific findings on the issue of whether the
17 ~~obligor~~ parent has or may obtain an occupational, professional, or recreational certificate,
18 permit, or license that the court may withhold or suspend. The court may withhold or suspend
19 any certificate, permit, or license issued by or on behalf of the state or any of its licensing
20 authorities or occupational or professional boards, which the ~~obligor~~ parent is required to obtain
21 prior to engaging in the ~~obligor's~~ parent's occupation or profession. The court may withhold or
22 suspend any certificate, permit, or license issued by lottery or by tag by the director of the game
23 and fish department, which the ~~obligor~~ parent is required to obtain prior to engaging in a
24 recreational activity. Following a decision to withhold or suspend ~~an obligor's~~ a parent's

1 certificate, permit, or license for failure to pay child support, the court shall notify the ~~obligor~~
2 parent that the decision becomes final thirty days after the notification unless the ~~obligor~~ parent
3 satisfies or makes arrangements to pay the entire outstanding payment due. Following a
4 decision to withhold or suspend ~~an obligor's a parent's~~ certificate, permit, or license for failure to
5 comply with a subpoena relating to a paternity or child support matter, the court shall notify the
6 ~~obligor~~ parent that the decision becomes final unless the ~~obligor~~ parent complies with the
7 subpoena within a time set by the court. The court shall notify the appropriate licensing
8 authority, occupational or professional board, or the director of the game and fish department of
9 the court's decision to withhold or suspend ~~an obligor's a parent's~~ certificate, permit, or license.
10 A certificate, permit, or license withheld or suspended by an order issued under this section
11 may be reissued only by order of the court. An appeal by ~~an obligor a parent~~ who has had a
12 certificate, permit, or license suspended under this section is an appeal from the court's order
13 and may not be appealed to the licensing authority, occupational or professional board, or the
14 director of the game and fish department.

15 **SECTION 2. AMENDMENT.** Section 14-08.1-07 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **14-08.1-07. Suspension of motor vehicle operator's license for nonpayment of**
18 **child support or failure to obey subpoena.** When considering a contempt citation against a
19 ~~child support obligor~~ parent who is in arrears in child support in an amount greater than three
20 times the monthly child support obligation and ~~the obligor~~ is not current in a court-established
21 plan to repay the unpaid child support arrears, or a parent who has failed, after receiving
22 appropriate notice, to comply with a subpoena relating to a paternity or child support matter, the
23 court shall determine whether the ~~obligor~~ parent has a motor vehicle operator's license issued
24 under chapter 39-06. The court may restrict or suspend a motor vehicle operator's license
25 issued by the state which is held by the ~~obligor~~ parent. The court shall notify the department of
26 transportation of the court's decision to restrict or suspend ~~an obligor's a parent's~~ motor vehicle
27 operator's license. An appeal by ~~an obligor a parent~~ who has had a motor vehicle operator's
28 license restricted or suspended under this section is an appeal from the court's order and may
29 not be appealed to the department of transportation. Except for statistical purposes, an entry
30 on the driving record or abstract of a restriction or suspension under this section after the
31 restriction or suspension ceases may not be available to the public other than by order of a

1 court of competent jurisdiction. A suspension under this section is not subject to the financial
2 responsibility reporting requirements.

3 **SECTION 3. AMENDMENT.** Subsection 2 of section 14-09-08.5 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 2. The notice ~~to the obligor~~ must inform the obligor and obligee of the duty to furnish
6 the information required by section 14-09-08.6 and that a failure to furnish the
7 required information may result in the entry of an order compelling the furnishing of
8 the information. The notice must also inform the obligor and obligee that the
9 review determination will be mailed to the obligor and obligee following the review.
10 The notice must be accompanied by an income report form, together with
11 instructions for the accurate completion of the income report form.

12 **SECTION 4. AMENDMENT.** Section 14-09-08.6 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **14-09-08.6. Obligor's and obligee's duties upon review - Failure to provide**
15 **information.**

16 1. The obligor and obligee shall provide information to the child support agency
17 concerning ~~the obligor's~~ income; which is sufficient to accomplish the review; no
18 later than five working days before the date of review. The information must be
19 furnished by providing an income report, in the form and manner required by the
20 public authority, accurately completed and attested to by the obligor and obligee,
21 earnings statements secured from the obligor's and obligee's current income payer
22 if the obligor or obligee changed employment after the end of the latest income tax
23 year for which the obligor or obligee filed a return, and providing:

24 a. A verified copy of the latest income tax return, filed with the internal revenue
25 service or any state official administering a state income tax, which accurately
26 reports the obligor's or obligee's income for a fiscal year ending no more than
27 seventeen months prior to the date of the review; or
28 b. A written authorization by which the child support agency may secure a
29 verified copy of the latest income tax return, filed with the tax commissioner,
30 which accurately reports the obligor's or obligee's income for a fiscal year
31 ending no more than seventeen months prior to the date of review.

- 1 2. If the obligor or obligee has not produced information under subsection 1
2 concerning ~~the obligor's income~~, which is sufficient to accomplish the review, the
3 child support agency may base its review determination on the assumption that the
4 ~~obligor's~~ income has increased at the rate of ten percent per year since the child
5 support order under review was entered or last modified.

6 **SECTION 5. AMENDMENT.** Subsection 2 of section 14-09-08.8 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 2. The court may determine the motion based upon the files, records, and evidence
9 received in consideration of the motion. If the child support agency certifies that,
10 despite diligent efforts to secure reliable information concerning the obligor's or
11 obligee's income, the obligor or obligee has not produced such information, and if
12 the obligor or obligee provides the court with no reliable evidence concerning the
13 obligor's or obligee's income, it is presumed that the obligor's or obligee's income
14 has increased at the rate of ten percent per year since the child support order was
15 entered or last modified.

16 **SECTION 6. AMENDMENT.** Subsections 1 and 2 of section 14-09-08.16 of the North
17 Dakota Century Code are amended and reenacted as follows:

- 18 1. A child support agency or the public authority may mail a request for information to
19 the income payer in any matter in which it secures reliable information that the
20 income payer may be indebted to an obligor or obligee. The request must identify
21 the obligor or obligee by name, and, if known, address and social security number.
- 22 2. Within ten days after receipt of a request for information issued under subsection 1,
23 an income payer shall provide the requester with a written statement informing the
24 requester whether or not the income payer is, or within the one hundred eighty
25 days immediately preceding receipt of the request has been, an income payer with
26 respect to that obligor or obligee. If the income payer is, or within the previous one
27 hundred eighty days has been, an income payer with respect to that obligor or
28 obligee, the income payer shall furnish information to the requester, including:
- 29 a. The amount of any income currently paid to the obligor or obligee, calculated
30 on a monthly basis;

- 1 b. The total amount of income paid to the obligor or obligee in the twelve months
- 2 preceding the month in which the request is received;
- 3 c. Information regarding any health insurance that may be made available to the
- 4 obligor's or obligee's children through the income payer;
- 5 d. The social security number under which payment of any income by the
- 6 income payer to the obligor or obligee is reported;
- 7 e. The obligor's or obligee's address; and
- 8 f. If the income payer is no longer an income payer with respect to that obligor
- 9 or obligee, the date of last payment and any forwarding address.

10 **SECTION 7.** A new subdivision to subsection 1 of section 14-09-09.7 of the North
11 Dakota Century Code is created and enacted as follows:

12 Consider the income of both parents, using an income shares child support
13 guidelines model.

14 **SECTION 8. AMENDMENT.** Subsections 8 and 9 of section 14-09-09.10 of the North
15 Dakota Century Code are amended and reenacted as follows:

- 16 8. "Income" means any form of payment, regardless of source, owed to an obligor or
- 17 obligee, including any earned, unearned, taxable or nontaxable income, workforce
- 18 safety and insurance benefits, disability benefits, unemployment compensation
- 19 benefits, annuity and retirement benefits, but excluding public assistance benefits
- 20 administered under state law.
- 21 9. "Income payer" means any person, partnership, firm, corporation, limited liability
- 22 company, association, political subdivision, or department or agency of the state or
- 23 federal government owing income to an obligor or obligee and includes an obligor
- 24 or obligee if the obligor or obligee is self-employed.

25 **SECTION 9. EFFECTIVE DATE.** This Act is effective on the earlier of August 1, 2008,
26 or the date the department of human services certifies to the legislative council as the effective
27 date of guidelines adopted which implement sections 1 through 8 of this Act, as provided by
28 subsection 4 of section 14-09-09.7.