

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2288  
(Senators Fischer, Heitkamp, J. Lee)  
(Representatives Devlin, Koppelman, Weisz)

AN ACT to create and enact a new section to chapter 14-09 of the North Dakota Century Code, relating to transfers of funds for payment of child support; to amend and reenact section 14-09-09.24 of the North Dakota Century Code, relating to income withholding for child support purposes; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 14-09-09.24 of the North Dakota Century Code is amended and reenacted as follows:

**14-09-09.24. Immediate income withholding.**

1. Except as provided in subsection 2 or 3, each judgment or order which requires the payment of child support, issued or modified on or after January 1, 1990, subjects the income of the obligor to income withholding, regardless of whether the obligor's support payments are delinquent.
2. If a party to a proceeding, who would otherwise be subject to immediate income withholding under subsection 1, demonstrates, and the court finds that there is good cause not to require immediate withholding, or if the parties, including any assignee of support rights, reach a written agreement that provides for an alternative arrangement for assuring the regular payment of child support, the court need not subject the income of the obligor to immediate withholding.
3. If an obligor, who would otherwise be subject to immediate income withholding under subsection 1 in at least one case in which services are being provided by a child support agency under title IV-D, demonstrates, and a child support agency finds there is good cause not to require immediate income withholding, the child support agency may enter into a written agreement with an obligor that provides for an alternate payment arrangement in lieu of immediate income withholding. Notwithstanding section 14-09-09.13, any failure to comply with an agreement under this subsection subjects the income of the obligor to income withholding under this section. Any obligee aggrieved by a finding of a child support agency under this subsection may seek review of the finding under subsection 2 of section 50-09-14.
4. A finding that there is good cause not to require immediate income withholding under subsection 2 or 3 must be based on at least:
  - a. A written determination that, and an explanation of why, implementing immediate income withholding would not be in the best interests of the child;
  - b. Proof of timely payment of previously ordered support, if any; and
  - c. A requirement that the obligor keep the clerk and the public authority informed of any employment-related health insurance to which the obligor has access.
4. 5. A written agreement for an alternative arrangement for assuring the regular payment of child support is effective only if the agreement at least, in addition to other conditions the parties agree to:

- a. Provides that the obligor shall keep the clerk and the public authority informed of any employment-related health insurance to which the obligor has access;
- b. Describes the provisions by which regular payment of child support is assured; and
- c. Is reviewed and approved by the court and entered into the court's records.

**SECTION 2.** A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

**Transfers of funds for payment of child support.** If a court determines that income withholding under this chapter is inapplicable, ineffective, or insufficient to ensure monthly payment of child support as determined under section 14-09-09.30, a court may, and upon request of a child support agency shall, order an obligor to identify or establish a deposit account that allows for periodic transfers of funds for payment of child support and to execute any necessary agreement for preauthorized transfers of funds from the account to the state disbursement unit for the payment of child support. An obligor who fails to comply with this section or make sufficient funds available to satisfy any preauthorized transfer, or who stops payment or revokes authorization for any preauthorized transfer, may be punished for contempt of court.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
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 Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2288 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas        43            Nays        0            Absent      4

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

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

Vote:      Yeas        86            Nays        0            Absent      8

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State