

**SENATE BILL NO. 2132**

Introduced by

Senators Kreun, Poolman, K. Roers, Vedaa

Representatives Ista, O'Brien

1 A BILL for an Act to amend and reenact section 14-09-09.38 of the North Dakota Century Code,  
2 relating to ~~suspending a~~the child support obligation of an incarcerated parent.

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

4 **SECTION 1. AMENDMENT.** Section 14-09-09.38 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **14-09-09.38. Child support obligation of incarcerated parents.**

- 7 1. A monthly support obligation established under any provision of this code and in effect  
8 after December 31, 2017, ~~expires~~is ~~suspended~~ by operation of law upon incarceration,  
9 ~~and until sixty days after release.~~ of the obligor under a sentence of one hundred  
10 eighty days or longer, excluding credit for time served before sentencing. ~~The~~  
11 ~~obligation recommences sixty days after the obligor is released from incarceration and~~  
12 ~~remains at the same amount as set at the time of the obligation's suspension unless~~  
13 ~~modified by the court upon motion of the obligor.~~
- 14 2. Notwithstanding subsection 1, a monthly support obligation may be established for an  
15 obligor ~~who~~is incarcerated under a sentence of one hundred eighty days or longer if  
16 the obligation is based on actual income of the obligor and the moving party makes a  
17 prima facie showing that the obligor's income exceeds the minimum amount provided  
18 in the guidelines established under section 14-09-09.7.
- 19 3. As used in this section, "incarceration" means placement of an obligor in a custodial  
20 setting in which the obligor is not permitted to earn wages from employment outside  
21 the correctional facility, and does not include probation or work release.
- 22 4. The ~~expiration~~suspension of a monthly support obligation under subsection 1 does not  
23 affect any past-due support ~~that~~is owed before the ~~expiration~~suspension of the  
24 obligation.

1     5. The child support agency shall notify the obligor and obligee of the expiration of a  
2     monthly support obligation under this section, including a description of how the  
3     obligation can be re-established after the obligor is released from incarceration.

4     6. If a monthly support obligation has expired under this section and is still being  
5     enforced by the child support agency when the obligor is released from incarceration,  
6     the child support agency shall re-establish a monthly support obligation as provided in  
7     this chapter without requiring a request or application for services.