

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2301

Introduced by

Senators J. Lee, Brown

Representatives Boucher, Devlin, Price, Weisz

1 A BILL for an Act to create and enact three new sections to chapter 50-09 of the North Dakota  
2 Century Code, relating to county payment of costs of the child support agency, employment of  
3 duly appointed special assistant attorneys general, and employees of county child support  
4 agencies; to amend and reenact sections 14-09-09.10, 35-34-01, and 50-01.2-00.1, subsection  
5 3 of section 50-01.2-03.2, sections 50-03-10 and 50-09-01, subsection 16 of section 50-09-02,  
6 and sections 50-09-03, 50-09-08, 50-09-15.1, 50-24.1-03.1, and 50-24.1-03.2 of the North  
7 Dakota Century Code, relating to state administration of the child support enforcement  
8 program; to provide a statement of legislative intent; to provide an appropriation; to provide a  
9 continuing appropriation; and to provide an effective date.

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

11 **SECTION 1. AMENDMENT.** Section 14-09-09.10 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13 **14-09-09.10. Definitions.** For the purposes of this chapter, unless the context or  
14 subject matter otherwise requires:

- 15 1. "Business day" means every day that is not a Saturday or legal holiday.
- 16 2. "Child support" means payments for the support of children and combined  
17 payments for the support of children and spouses or former spouses, however  
18 denominated, if the payment is required by the order of a court or other  
19 governmental agency having authority to issue such orders.
- 20 3. "Child support agency" means the ~~county social service board, any combination of~~  
21 ~~county social service boards, or any entity created by a county social service board~~  
22 ~~or any combination of county social service boards,~~ department of human services  
23 ~~in execution of the county social service board's its duties under subsection 5 of~~  
24 ~~section 50-09-03 pursuant to the state plan submitted under chapter 50-09 in~~

conformance with title IV-D of the Social Security Act, as amended [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].

4. "Delinquent" means a situation which occurs on the first working day after the day upon which a child support payment was identified as due and unpaid, and the total amount of unpaid child support is at least equal to the amount of child support payable in one month.
5. "Disposable income" means gross income less deductions required by law for taxes and social security.
6. "Employer" means income payer.
7. "Health insurance" includes fees for service, health maintenance organization, preferred provider organization, comprehensive health association plan, accident and health insurance policies, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical coverage may be provided in a policy, plan, or contract which may legally be sold or provided in this state.
8. "Income" means any form of payment, regardless of source, owed to an obligor, including any earned, unearned, taxable or nontaxable income, workforce safety and insurance benefits, disability benefits, unemployment compensation benefits, annuity and retirement benefits, but excluding public assistance benefits administered under state law.
9. "Income payer" means any person, partnership, firm, corporation, limited liability company, association, political subdivision, or department or agency of the state or federal government owing income to an obligor and includes an obligor if the obligor is self-employed.
10. "Obligee" means a person, including a state or political subdivision, to whom a duty of support is owed.
11. "Obligor" means any person owing a duty of support.
12. "Past-due support" means child support that is not paid by the earlier of:
  - a. The date a court order or an order of an administrative process established under state law requires payment to be made; or

b. The last day of the month or other period the payment was intended to cover.

13. "Payday" means the day upon which the income payer pays or otherwise credits the obligor.

~~14. "Public authority" means the department of human services in execution of its duties pursuant to the state plan submitted under chapter 50-09 in conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].~~

~~15. "System implementation date" means the date the public authority certifies to the secretary of state and the legislative council that the statewide automated data processing system, established under section 50-09-02.1, is operating.~~

**SECTION 2. AMENDMENT.** Section 35-34-01 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-01. Definitions.** For purposes of this chapter:

1. "Account" has the meaning provided in section 50-09-01.

2. "Child support" has the meaning provided in section 14-09-09.10.

3. "Child support agency" has the meaning provided in section 14-09-09.10.

~~4.~~ "Financial institution" has the meaning provided in section 50-09-01.

~~4.~~ 5. "Obligee" has the meaning provided in section 14-09-09.10.

~~5.~~ 6. "Obligor" has the meaning provided in section 14-09-09.10.

~~6.~~ 7. "Past-due support" has the meaning provided in section 14-09-09.10.

~~7. "Public authority" has the meaning provided in section 14-09-09.10.~~

8. "Vehicle" has the meaning provided in section 39-01-01.

9. "Vessel" has the meaning provided in section 20.1-01-02.

**SECTION 3. AMENDMENT.** Section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-01.2-00.1. Definitions.** In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.

2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, materials, travel, utilities, and related costs, and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the

~~temporary assistance for needy families program~~, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs to the extent those costs exceed, in any calendar year, that county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996, or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.

3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:

- a. Temporary assistance for needy families;
- b. ~~Child support enforcement programs;~~
- e. ~~Programs established under section 50-06-01.8;~~
- d. Employment and training programs;
- e. c. Child care assistance programs;
- f. d. Medical assistance, including early periodic screening, diagnosis, and treatment;
- g. e. Food stamp programs, including employment and training programs;
- h. f. Refugee assistance programs;
- i. g. Basic care services;
- j. h. Energy assistance programs; and
- k. i. Information and referral.

**SECTION 4. AMENDMENT.** Subsection 3 of section 50-01.2-03.2 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which more than twenty percent of the caseload for these programs consists of people who reside on a federally

recognized Indian reservation or property tax-exempt tribal trust lands. The reimbursement must be such that:

- a. An affected county's expenses for locally administered economic assistance programs in excess of the statewide average of such costs, expressed in mills, for all other counties will be reimbursed at ~~ninety~~ one hundred percent;
- b. Each calendar year the affected counties will receive quarterly allocations based on the actual county expenses for the state fiscal year ending the previous June thirtieth and the most recent taxable valuations published pursuant to section 57-13-07 available on that date; and
- c. The reimbursement will be calculated for each county and reported to the county social service board prior to August first of the year preceding the allocation.

**SECTION 5. AMENDMENT.** Section 50-03-10 of the North Dakota Century Code is amended and reenacted as follows:

**50-03-10. County commissions to make recommendations.** Before August first of each year, the boards of county commissioners of the counties shall make a collective recommendation to the department concerning the distribution between counties, of the social service block grant funds; and the general fund equivalents of social service block grant funds; ~~and child support incentive funds~~ available to the department for distribution to county social service boards. The department shall consider the recommendation of the county commissioners in determining the distribution to the county social service boards, in the following calendar year, of the social service block grant funds; and the general fund equivalents of social service block grant funds, ~~and child support incentive funds~~ available to the department for that purpose.

**SECTION 6. AMENDMENT.** Section 50-09-01 of the North Dakota Century Code is amended and reenacted as follows:

**50-09-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, share account, share draft account, savings account, time deposit account, securities account, money market mutual fund account, or any other

account or arrangement that reflects an owner's share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, to the extent the owner is permitted to redeem the share or interest by an order for payment to a third party.

2. "Assistance" means money payments with respect to, or goods and services provided for dependent children, including payments for the care of unmarried mothers or fathers and their infants.

3. "Child support" has the meaning provided in section 14-09-09.10.

~~4. "Child support agency" has the meaning provided in section 14-09-09.10.~~

~~5.~~ "County agency" means the county social service board in each of the counties of the state.

~~6.~~ 5. "Dependent child" means any needy child who is described in a state plan for aid and services to needy families submitted pursuant to title IV-A.

~~7.~~ 6. "Financial institution" means:

- a. A depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)];
- b. An institution-affiliated party, as defined in section 3(u) of the Federal Deposit Insurance Act [12 U.S.C. 1813(u)];
- c. Any federal credit union or state credit union, as defined in section 101 of the Federal Credit Union Act [12 U.S.C. 1752], including an institution-affiliated party of such a credit union, as defined in section 206(r) of the Federal Credit Union Act [12 U.S.C. 1786(r)]; and
- d. Any benefit association, insurance company, safe deposit company, securities intermediary, money market mutual fund, or similar entity authorized to do business in the state.

~~8.~~ 7. "Obligor" has the meaning provided in section 14-09-09.10.

~~9.~~ 8. "Past-due support" has the meaning provided in section 14-09-09.10.

~~10.~~ 9. "Secretary" means the secretary of the United States department of health and human services.

~~11.~~ 10. "Securities account" has the meaning provided in section 41-08-41.

- 1     ~~42.~~ 11.    "Securities intermediary" has the meaning provided in section 41-08-02, but does  
2                   not include a clearing corporation.
- 3     ~~43.~~ 12.    "State agency" means the North Dakota department of human services.
- 4     ~~44.~~ 13.    "Title IV-A" means title IV-A of the Social Security Act, as adopted by title I of Pub.  
5                   L. 104-193 [110 Stat. 2110 et seq.; 42 U.S.C. 601 et seq.].
- 6     ~~45.~~ 14.    "Title IV-B" means title IV-B of the Social Security Act [Pub. L. 90-248, title II,  
7                   sec. 240(c); 81 Stat. 911; 42 U.S.C. 620 et seq.], as amended.
- 8     ~~46.~~ 15.    "Title IV-D" means title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat.  
9                   2351; 42 U.S.C. 651 et seq.].
- 10    ~~47.~~ 16.    "Title IV-E" means title IV-E of the Social Security Act [Pub. L. 96-272, title I,  
11                  sec. 101(a)(1); 94 Stat. 501; 42 U.S.C. 670 et seq.], as amended.
- 12    ~~48.~~ 17.    "Work activity" means any activity permitted or required to be treated as work for  
13                  purposes of calculating a work participation rate.

14           **SECTION 7. AMENDMENT.** Subsection 16 of section 50-09-02 of the North Dakota  
15 Century Code is amended and reenacted as follows:

- 16           16.    Act as the official agency of the state in the administration of the child support  
17                  enforcement program and medical support enforcement program in conformity with  
18                  title IV-D ~~and to direct and supervise county administration of that program. In~~  
19                  administering the child support enforcement and medical support enforcement  
20                  programs, the state agency may contract with any public or private agency or  
21                  person to discharge the state agency's child support enforcement duties.

22           **SECTION 8. AMENDMENT.** Section 50-09-03 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24           **50-09-03. Duties of county agency.** In the administration of assistance under this  
25 chapter, a county agency shall:

- 26           1.    Administer the temporary assistance for needy families program in its county,  
27                  subject to the rules of the state agency.
- 28           2.    Report to the state agency at such times and in such manner and form as the state  
29                  agency, from time to time, may direct.

3. Submit annually to the board of county commissioners of each county a budget containing an estimate and supporting data, setting forth the amount of money needed to carry out the provisions of this chapter.

4. Cooperate with juvenile courts and licensed children's agencies.

~~5. Administer the child support enforcement program under the direction and supervision of the state agency in conformity with title IV-D. In administering the program, the county agency shall have the authority to contract with any public or private agency or person to discharge their child support enforcement duties.~~

~~6.~~ Administer child and family services under the direction and supervision of the state agency in conformity with title IV-B.

~~7.~~ 6. Administer federal payments for foster care and adoption assistance under the direction and supervision of the state agency in conformity with title IV-E.

**SECTION 9. AMENDMENT.** Section 50-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**50-09-08. Investigations - Power of county agencies, state agency, and employees.**

1. In the investigation of applications under the provisions of this chapter, the county agencies, the state agency, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:

~~4.~~ a. Conduct examinations;

~~2.~~ b. Require the attendance of witnesses and the production of books, records, and papers; and

~~3.~~ c. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.

~~4.~~ 2. ~~Request~~ The state agency may request from other state agencies, and county, and local agencies, information deemed necessary to carry out the child support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the state ~~and county~~ agency in locating absent parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the state ~~or county~~ agency with available information relative to the location, income, social security



number, and property holdings of the absent parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the state agency who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

3. The officers and employees designated by the county agencies or the state agency may administer oaths and affirmations.

**SECTION 10. AMENDMENT.** Section 50-09-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**50-09-15.1. Child support ~~incentives~~ improvement account - Continuing appropriation.** The child support ~~incentives~~ improvement account is established as a special account in the state treasury. ~~One~~ Five percent of the total amount of child support incentive payments paid to the state by the office of child support enforcement of the United States department of health and human services must be deposited into the child support ~~incentives~~ improvement account. ~~The state agency, within the limits of legislative appropriation, shall distribute the moneys in the child support incentives account as grants to organizations determined eligible by the state agency for the purpose of providing child support related education of and training for individuals involved in child support enforcement. The state agency, prior to distributing the moneys in the child support incentives account, shall invite comments regarding the distribution of the moneys from representatives of the North Dakota state's attorneys association and regional child support offices and other interested persons.~~ The funds in the child support improvement account, the balance of the child support incentives account on the effective date of this Act, and any matching federal funds received by the state agency are appropriated on a continuing basis for the sole purpose of producing increases in child support collections, federal child support incentives, or other revenue or savings to the state agency, or reductions in unpaid child support, that exceed the total amount of improvement funds expended. Improvement funds may be used to sponsor training and publications that promote child support enforcement activities. The state agency shall develop and maintain a business plan that defines the goals and objectives of the child support

1 enforcement program, identifies methods to increase child support collections or reduce unpaid  
2 child support, and outlines the process for evaluating progress toward the goals and objectives  
3 in the business plan. The state agency must maintain a record of its use of improvement funds  
4 and the anticipated result from the use of the funds. Improvement funds may only be used for  
5 activities that are included in the business plan maintained under this section.

6 **SECTION 11.** Three new sections to chapter 50-09 of the North Dakota Century Code  
7 are created and enacted as follows:

8 **County payment of costs of state agency - Equipment.**

9 1. For years on or after January 1, 2006, each county shall pay the state agency an  
10 amount equal to the county's allocated share of the regional expenditures for  
11 administration of the child support enforcement program for year 2004 minus any  
12 child support incentive payments and other federal or state child support  
13 enforcement reimbursements received by the county during the year 2004. The  
14 value of any office space provided by a county at no charge during the year 2004  
15 for administration of the child support program is considered an expenditure under  
16 this subsection unless the county and the state agency agree that the same office  
17 space will be provided by the county to the state agency at no charge to the state  
18 agency.

19 2. The amount due from a county to the state agency under subsection 1 is reduced:  
20 a. By twenty percent for the years beginning July 1, 2009;  
21 b. By forty percent of the years beginning July 1, 2011; and  
22 c. By sixty percent for the years beginning July 1, 2013, and every year  
23 thereafter.

24 3. Any equipment, including technology-related equipment, furnishings, and supplies  
25 in the control and custody of a regional child support agency on the effective date  
26 of this Act must be transferred to the control and custody of the state agency.

27 **Employment of special assistant attorneys general.** The state agency may employ  
28 special assistant attorneys general who are duly appointed under section 54-12-08 to carry out  
29 its duties in administering the child support enforcement and medical support enforcement  
30 programs. The salary of each special assistant attorney general must be paid by the state  
31 agency. An appointment under this section is revocable at the pleasure of the attorney general.

1       **Transfer of employees.** On the effective date of this Act, all existing employees of a  
2 regional child support enforcement agency become employees of the state agency. Any  
3 employee who becomes a state employee under this section is entitled to receive a salary in an  
4 amount not less than the salary received as an employee of the regional child support agency.  
5 A long as counties continue to contribute to the cost of supporting the regional child support  
6 enforcement system, the department shall maintain offices in the current eight communities.

7       **SECTION 12. AMENDMENT.** Section 50-24.1-03.1 of the North Dakota Century Code  
8 is amended and reenacted as follows:

9       **50-24.1-03.1. Duties of county agency.** In the administration of the medical  
10 assistance program, a county agency shall:

- 11       ~~1. Administer the medical support enforcement program under the direction and~~  
12       ~~supervision of the department of human services. In administering the program~~  
13       ~~the county agency shall have the authority to contract with any public or private~~  
14       ~~agency or person to discharge their medical support enforcement duties.~~  
15       2. ~~Make an investigation~~ investigate and record the circumstances of each applicant  
16       or recipient of assistance, in order to ascertain the facts supporting the application,  
17       or the granting of assistance, and ~~shall~~ obtain such other information as may be  
18       required by the rules and regulations of the department of human services.

19       **SECTION 13. AMENDMENT.** Section 50-24.1-03.2 of the North Dakota Century Code  
20 is amended and reenacted as follows:

21       **50-24.1-03.2. Investigations - Power of county agencies, department, and**  
22 **employees.**

- 23       1. In the investigation of applications under the provisions of this chapter, the county  
24       agencies, the department of human services, and the officials and employees of  
25       such agencies charged with the administration and enforcement of this chapter  
26       may:  
27       ~~4.~~ a. Conduct examinations;:  
28       ~~2.~~ b. Require the attendance of witnesses and the production of books, records,  
29       and papers;: and  
30       ~~3.~~ c. Make application to the district court of the county to compel the attendance  
31       of witnesses and the production of books, records, and papers.

4. 2. ~~Request~~ The department of human services may request from other state, county, and local agencies information deemed necessary to carry out the medical support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the department of human services ~~and the county agency~~ in locating absent spouses or parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the department ~~or the county agency~~ with available information relative to the location, income, social security number, and property holdings of the absent spouse or parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the department of human services who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the medical support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

3. The officers and employees designated by the county agencies or the department of human services may administer oaths and affirmations.

**SECTION 14. LEGISLATIVE INTENT - OPERATIONAL EFFICIENCIES.** It is the intent of the legislative assembly that the reduction in county funding under section 11 of this Act and the corresponding increase in state funding for administration of child support enforcement be offset to the greatest extent feasible by increased child support collections or operational efficiencies such as maximization of federal incentive funds, optimal distribution of staff at the state office and regional offices, improvements in automation, and specialization of staff, including a comprehensive review by the department of human services and North Dakota human resource management services of the classification and compensation of all state employees engaged in child support enforcement activities.

**SECTION 15. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY REFERENCES.** The legislative council may correct references to county, local, or regional child support agencies, to the state child support agency, and to the public authority as they pertain to the provision of child support enforcement or medical support enforcement services,

1 or any variation of these terms as appropriate, in the North Dakota Century Code and in any  
2 measure enacted by the fifty-ninth legislative assembly.

3       **SECTION 16. APPROPRIATION.** The county funds paid to the department of human  
4 services under section 11 of this Act, and any child support incentive payments and other  
5 federal or state child support enforcement reimbursements that are credited against the amount  
6 due from counties under section 11 of this Act, are appropriated to the department of human  
7 services for the purposes of defraying the expenses of administering the child support  
8 enforcement program for the biennium beginning July 1, 2005, and ending June 30, 2007.

9       **SECTION 17. EFFECTIVE DATE.** This Act becomes effective on January 1, 2006.