

Introduced by

Representatives Weisz, Bellew, DeKrey

Senator Klein

1 A BILL for an Act to amend and reenact section 14-09-09.7 of the North Dakota Century Code,
2 relating to the child support guidelines; and to provide an agency directive.

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

4 **SECTION 1. AMENDMENT.** Section 14-09-09.7 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-09-09.7. Child support guidelines.**

- 7 1. The department of human services shall establish child support guidelines to assist
8 courts in determining the amount a parent should be expected to contribute toward
9 the support of the child under this section. The guidelines must:
- 10 a. Include consideration of gross income. For purposes of the guidelines, gross
11 income does not include an employee benefit over which the employee does
12 not have significant influence or control over the nature or amount unless:
 - 13 (1) That benefit may be liquidated; and
 - 14 (2) Liquidation of that benefit does not result in the employee incurring an
15 income tax penalty.
 - 16 b. Authorize an expense deduction for determining net income.
 - 17 c. Designate other available resources to be considered.
 - 18 d. Specify the circumstances that should be considered in reducing support
19 contributions on the basis of hardship.
 - 20 e. Include consideration of extended periods of time a minor child spends with
21 the child's obligor parent.
 - 22 f. ~~Authorize a rebuttal of the presumption provided in subsection 3 in cases of~~
23 ~~atypical overtime wages or nonrecurring bonuses over which the obligor does~~
24 ~~not have significant influence or control.~~

- 1 ~~g.~~ Authorize a rebuttal of the presumption provided in subsection ~~3~~ 4 based on
2 the proportionate net income of the obligor and the obligee when the net
3 income of the obligee is at least three times higher than the net income of the
4 obligor.
- 5 ~~h.~~ g. Include consideration of an obligated party's responsibility for health
6 insurance coverage or other medical support under section 14-09-08.10.
- 7 2. The guidelines may not take into consideration cases of atypical overtime wages
8 or nonrecurring bonuses over which the obligor does not have significant influence
9 or control.
- 10 3. The department shall accept and compile pertinent and reliable information from
11 any available source in order to establish the child support guidelines. Copies of
12 the guidelines must be made available to courts, state's attorneys, and upon
13 request, to any other state or county officer or agency engaged in the
14 administration or enforcement of this chapter.
- 15 ~~3.~~ 4. There is a rebuttable presumption that the amount of child support that would
16 result from the application of the child support guidelines is the correct amount of
17 child support. The presumption may be rebutted if a preponderance of the
18 evidence in a contested matter establishes, applying criteria established by the
19 child support agency which take into consideration the best interests of the child,
20 that the child support amount established under the guidelines is not the correct
21 amount of child support. A written finding or a specific finding on the record must
22 be made if the court determines that the presumption has been rebutted. The
23 finding must:
- 24 a. State the child support amount determined through application of the
25 guidelines;
- 26 b. Identify the criteria that rebut the presumption of correctness of that amount;
27 and
- 28 c. State the child support amount determined after application of the criteria that
29 rebut the presumption.
- 30 ~~4.~~ 5. The department shall institute a new rulemaking proceeding under section
31 28-32-02 relating to the child support guidelines to ensure that the application of

1 the guidelines results in the determination of appropriate child support award
2 amounts. The initial rulemaking proceeding must be commenced with a notice of
3 proposed adoption, amendment, or repeal by August 1, 1998, and subsequent
4 rulemaking proceedings must be so commenced at least once every four years
5 thereafter. Before commencing any rulemaking proceeding under this section, the
6 department shall convene a drafting advisory committee that includes two
7 members of the legislative assembly appointed by the chairman of the legislative
8 council.

9 ~~5.~~ 6. The guidelines established under this section may include a separate amount of
10 child support for the child's health insurance coverage, reimbursement for public
11 health coverage provided under chapter 50-29, and other medical support.

12 **SECTION 2. ADMINISTRATIVE RULEMAKING - ADDITIONAL REBUTTAL**

13 **CRITERIA.** As part of the first rulemaking commenced under section 14-09-09.7 after the
14 effective date of this Act, the Department of Human Services shall adopt new criteria for
15 rebutting the presumptively correct amount of support determined under the child support
16 guidelines based on the increased ability of an obligor, whose income is decreased based on
17 depreciation, to provide child support.