

**HOUSE BILL NO. 1280**

Introduced by

Representatives Belter, Devlin

Senator Wardner

1 A BILL for an Act to create and enact a new section to chapter 50-09 of the North Dakota  
2 Century Code, relating to state liability for costs associated with implementing an income  
3 shares child support guidelines model; and to amend and reenact sections 14-08.1-06,  
4 14-08.1-07, subsection 2 of section 14-09-08.5, section 14-09-08.6, subsection 2 of section  
5 14-09-08.8, subsection 1 of section 14-09-09.7, and section 14-09-09.10, relating to child  
6 support obligees and obligors.

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 is not current in a  
14 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 certificate, permit,

1 or license for failure to pay child support, the court shall notify the obligor that the decision  
2 becomes final thirty days after the notification unless the obligor satisfies or makes  
3 arrangements to pay the entire outstanding payment due. Following a decision to withhold or  
4 suspend ~~an obligor's~~ a parent's certificate, permit, or license for failure to comply with a  
5 subpoena relating to a paternity or child support matter, the court shall notify the ~~obligor~~ parent  
6 that the decision becomes final unless the ~~obligor~~ parent complies with the subpoena within a  
7 time set by the court. The court shall notify the appropriate licensing authority, occupational or  
8 professional board, or the director of the game and fish department of the court's decision to  
9 withhold or suspend ~~an obligor's~~ a parent's certificate, permit, or license. A certificate, permit,  
10 or license withheld or suspended by an order issued under this section may be reissued only by  
11 order of the court. An appeal by ~~an obligor~~ a parent who has had a certificate, permit, or  
12 license suspended under this section is an appeal from the court's order and may not be  
13 appealed to the licensing authority, occupational or professional board, or the director of the  
14 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 of the duty to furnish the  
6 information required by section 14-09-08.6 and that a failure to furnish the required  
7 information may result in the entry of an order compelling the furnishing of the  
8 information. The notice must also inform the obligor and obligee that the review  
9 determination will be mailed to the obligor and obligee following the review. The  
10 notice must be accompanied by an income report form, together with instructions  
11 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 duties upon review - Failure to provide information.**

- 15 1. ~~The obligor~~ Each parent shall provide information to the child support agency  
16 concerning ~~the obligor's~~ income; which is sufficient to accomplish the review, no  
17 later than five working days before the date of review. The information must be  
18 furnished by:
- 19 a. Providing an income report, in the form and manner required by the child  
20 support agency, accurately completed and attested to by the ~~obligor~~ parent;
  - 21 b. Providing a verified copy of the latest income tax return, filed with the internal  
22 revenue service or any state official administering a state income tax, which  
23 accurately reports the ~~obligor's~~ parent's income for a fiscal year ending no  
24 more than seventeen months prior to the date of the review; or
  - 25 c. Providing a written authorization by which the child support agency may  
26 secure a verified copy of the latest income tax return, filed with the tax  
27 commissioner, which accurately reports the ~~obligor's~~ parent's income for a  
28 fiscal year ending no more than seventeen months prior to the date of review.
- 29 2. If information concerning ~~the obligor's~~ income sufficient to accomplish the review  
30 has not been timely furnished by ~~the obligor~~ each parent, the child support agency

- 1            may apply to the court for an order compelling ~~the obligor~~ a parent to furnish  
2            information sufficient to accomplish the review.
- 3            3. If an application to the court made pursuant to subsection 2 has not resulted in the  
4            production of information concerning the ~~obligor's~~ parent's income sufficient to  
5            accomplish the review, the child support agency may base its review determination  
6            on the assumption that the ~~obligor's~~ parent's income has increased at the rate of  
7            ten percent per year since the child support order under review was entered or last  
8            modified.

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

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

19           **SECTION 6. AMENDMENT.** Subsection 1 of section 14-09-09.7 of the North Dakota  
20          Century Code is amended and reenacted as follows:

- 21           1. The department of human services shall establish child support guidelines to assist  
22           courts in determining the amount ~~that~~ a parent should be expected to contribute  
23           toward the support of the child under this section. The guidelines must:
- 24           a. Include consideration of gross income.
  - 25           b. Authorize an expense deduction for determining net income.
  - 26           c. Designate other available resources to be considered.
  - 27           d. Specify the circumstances ~~which~~ that should be considered in reducing  
28           support contributions on the basis of hardship.
  - 29           e. Consider the income of both parents, using an income shares child support  
30           guidelines model.

1           **SECTION 7. AMENDMENT.** Section 14-09-09.10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **14-09-09.10. Definitions.** For the purposes of this chapter, unless the context or  
4 subject matter otherwise requires:

- 5           1. "Business day" means every day that is not a Saturday or legal holiday.
- 6           2. "Child support" means payments for the support of children and combined  
7           payments for the support of children and spouses or former spouses, however  
8           denominated, if the payment is required by the order of a court or other  
9           governmental agency having authority to issue such orders.
- 10          3. "Child support agency" means the county social service board, any combination of  
11          county social service boards, or any entity created by a county social service board  
12          or any combination of county social service boards, in execution of the county  
13          social service board's duties under subsection 5 of section 50-09-03.
- 14          4. "Delinquent" means a situation which occurs on the first working day after the day  
15          upon which a child support payment was identified as due and unpaid, and the  
16          total amount of unpaid child support is at least equal to the amount of child support  
17          payable in one month.
- 18          5. "Disposable income" means gross income less deductions required by law for  
19          taxes and social security.
- 20          6. "Employer" means income payor.
- 21          7. "Health insurance" includes fees for service, health maintenance organization,  
22          preferred provider organization, comprehensive health association plan, accident  
23          and health insurance policies, group health plans as defined in section 607(1) of  
24          the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat.  
25          281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical  
26          coverage may be provided in a policy, plan, or contract which may legally be sold  
27          or provided in this state.
- 28          8. "Income" means any form of payment, regardless of source, owed to an obligor or  
29          an obligee, including any earned, unearned, taxable or nontaxable income,  
30          workers' compensation, disability benefits, unemployment compensation benefits,

- 1 annuity and retirement benefits, but excluding public assistance benefits  
2 administered under state law.
- 3 9. "Income payor" means any person, partnership, firm, corporation, limited liability  
4 company, association, political subdivision, or department or agency of the state or  
5 federal government owing income to an obligor ~~and~~ or an obligee. The term  
6 includes an obligor or obligee if the obligor or obligee is self-employed.
- 7 10. "Obligee" means a person including a state or political subdivision to whom a duty  
8 of support is owed.
- 9 11. "Obligor" means any person owing a duty of support.
- 10 12. "Past-due support" means child support that is not paid by the earlier of:  
11 a. The date a court order or an order of an administrative process established  
12 under state law requires payment to be made; or  
13 b. The last day of the month or other period the payment was intended to cover.
- 14 13. "Payday" means the day upon which the income payor pays or otherwise credits  
15 the obligor or obligee.
- 16 14. "Public authority" means the department of human services in execution of its  
17 duties pursuant to the state plan submitted under chapter 50-09 in conformance  
18 with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C.  
19 651 et seq.].
- 20 15. "System implementation date" means the date the public authority certifies to the  
21 secretary of state and the legislative council that the statewide automated data  
22 processing system, established under section 50-09-02.1, is operating.

23 **SECTION 8.** A new section to chapter 50-09 of the North Dakota Century Code is  
24 created and enacted as follows:

25 **Amount state liable for - Income shares child support model.** The state agency  
26 quarterly shall pay to or on behalf of each county, upon a claim made by each county agency or  
27 regional child support enforcement unit quarterly, the amount expended by each county agency  
28 or regional child support enforcement unit as a result of the change from the obligor child  
29 support guidelines model to the income shares child support guidelines model. A county  
30 agency or regional child support enforcement unit may not request state agency reimbursement

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- 1 of any amount to the extent the county agency or regional child support enforcement unit
- 2 receives federal reimbursement for that amount.