

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1172

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 13-05, two new subsections to
2 section 14-09-25, a new subsection to section 15-39.1-30, a new subsection to section
3 39-03.1-28, and a new subsection to section 54-52-26 of the North Dakota Century Code,
4 relating to judgment interest and the collection and disbursement of child support; to amend
5 and reenact subsection 3 of section 14-09-08.1, section 14-09-08.15, subsection 5 of section
6 14-09-09.3, subsection 5 of section 14-09-25, subsection 1 of section 28-22-19, and sections
7 34-15-06, 50-09-08.5, and 50-09-33 of the North Dakota Century Code, relating to reporting of
8 new hires, enforcement of medical support, and the collection and disbursement of child
9 support; to provide a continuing appropriation; and to provide an effective date.

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

11 **SECTION 1.** A new section to chapter 13-05 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Child support collection agencies.**

- 14 1. Notwithstanding section 13-05-02, a collection agency attempting in any manner to
15 collect child support as defined in section 14-09-09.10 must be licensed under this
16 chapter if either the child support debtor or creditor reside within this state, if the
17 child support debt arises under an order issued by a court of this state, or if a
18 record of the child support debt is being maintained on the statewide automated
19 data processing system under section 50-09-02.1.
- 20 2. A collection agency licensed under this section may not:
- 21 a. Impose a fee or charge for any child support collected primarily through the
22 efforts of a governmental agency;
- 23 b. Impose a fee or charge for collection of a current child support payment; or

- 1 c. Designate a current child support payment as past-due support or other
2 amount owed.
- 3 3. If the child support debt arises under an order issued by a court of this state, or if a
4 record of the child support debt is being maintained on the statewide automated
5 data processing system under section 50-09-02.1, all child support payments
6 collected by a collection agency must be paid to the department of human services
7 within five business days for disbursement under section 14-09-25. Child support
8 payments disbursed under section 14-09-25 may not be redirected to a collection
9 agency unless specifically permitted by rules adopted by the department of human
10 services.
- 11 4. A collection agency failing to pay child support payments to the department of
12 human services as required in this section is liable to the obligor for three times the
13 amount improperly withheld by the collection agency or five hundred dollars,
14 whichever is greater, in addition to any other remedy or damages permitted by law.
15 The department of human services is not required to give credit for payments
16 withheld by a collection agency in violation of this section.
- 17 5. Any person contracting for services with a collection agency for the collection of
18 child support may cancel the contract without a fee or charge upon thirty days'
19 written notice.

20 **SECTION 2. AMENDMENT.** Subsection 3 of section 14-09-08.1 of the North Dakota
21 Century Code is amended and reenacted as follows:

- 22 3. Whenever there is failure to make the payments as required, the clerk of court
23 may, and upon request of the obligee or child support agency, shall send notice of
24 the arrears by first-class mail, with affidavit of service, to the person required to
25 make the payments, or request a district judge of the judicial district to issue a
26 citation for contempt of court against the person who has failed to make the
27 payments ~~and the.~~ The citation must may be served on that person ~~as provided~~
28 ~~by the North Dakota Rules of Civil Procedure. The clerk of court may delay~~
29 ~~sending a notice of arrears or request for a citation for contempt of court under this~~
30 ~~section if a notice has been mailed to the obligor under section 50-09-08.6 by~~
31 first-class mail with affidavit of service to the person's last-known address.

1 **SECTION 3. AMENDMENT.** Section 14-09-08.15 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **14-09-08.15. Reasonable cost of health insurance.** For purposes of this chapter,
4 health insurance is considered reasonable in cost if it is available to the obligor on a group
5 basis or through an employer or union, regardless of service delivery mechanism, or as
6 otherwise defined by the public authority in compliance with rules promulgated by the secretary
7 of the United States department of health and human services.

8 **SECTION 4. AMENDMENT.** Subsection 5 of section 14-09-09.3 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. Any contempt proceeding against an income payer under this section must be
11 commenced within one ~~hundred eighty days~~ year after the income payer's act or
12 failure to act upon which such proceeding is based.

13 **SECTION 5. AMENDMENT.** Subsection 5 of section 14-09-25 of the North Dakota
14 Century Code is amended and reenacted as follows:

15 5. The state disbursement unit shall deposit all child support payments received in
16 the state treasury. All payments so deposited, except those payments assigned to
17 the state, are appropriated to the public authority as a standing and continuing
18 appropriation for the purpose of making disbursements to obligees entitled to the
19 child support payments collected. If the public authority is not able to locate the
20 obligee for three years after the date it receives a child support payment, the
21 payment may be retained by the public authority on behalf of the state as
22 compensation for its disbursement efforts. Any funds retained by the public
23 authority under this subsection must be deposited in the account established under
24 section 50-09-15.1. Notwithstanding section 50-09-15.1, any funds that have been
25 retained and deposited under this subsection may be used by the public authority
26 to promote public awareness of the consequences of out-of-wedlock births and the
27 cost of supporting minor children. Subject to available appropriations, any claim by
28 an obligee for funds that have been retained under this subsection must be paid
29 out of the account established under section 50-09-15.1.

30 **SECTION 6.** Two new subsections to section 14-09-25 of the North Dakota Century
31 Code are created and enacted as follows:

1 The public authority may suspend or waive judgment interest on an arrearage as
2 part of an amnesty program as an incentive for satisfying a child support obligation
3 or complying with a payment plan or if the public authority determines that the
4 judgment interest is not collectible through commercially reasonable efforts. This
5 subsection applies to judgment interest accruing before the effective date of this
6 Act only if the arrearage is assigned to the public authority under section
7 50-09-06.1 or 50-24.1-02.1 or if the obligee provides written consent. Any
8 judgment interest that is suspended or waived under this subsection may be
9 reinstated by a court at any time or by the public authority if the obligor has failed
10 to comply with a payment plan.

11 If an obligee is deceased, any past-due child support that is received must be
12 disbursed in the following order:

- 13 a. As specifically provided in a court order in the event of the obligee's death;
14 b. To the obligee's estate or as provided in the obligee's will;
15 c. To the child or children on whose behalf the payments were made if the child
16 or children are all eighteen years of age or older; or
17 d. As directed by the court if one or more of the children to whom the child
18 support is owed are under eighteen years old.

19 **SECTION 7.** A new subsection to section 15-39.1-30 of the North Dakota Century
20 Code is created and enacted as follows:

21 A government child support enforcement agency for purposes of establishing
22 paternity or establishing, modifying, or enforcing a child support obligation of the
23 member.

24 **SECTION 8. AMENDMENT.** Subsection 1 of section 28-22-19 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 1. All pensions or annuities or retirement, disability, death, or other benefits paid or
27 payable by, or amounts received as a return of contributions and interest from, a
28 retirement system established pursuant to state law by the state except as
29 provided by sections 15-39.1-12.2, 39-03.1-14.2, 54-52-17.6, and 54-52.2-03.3, a
30 state agency, a political subdivision of the state, or a firefighters relief association
31 for retirement, annuity, pension, disability benefit, or death benefit purposes. The

1 exemption in this subsection does not apply to the collection of child support
2 unless federal law requires an exemption or if complying with an execution or other
3 process would require an actuarial analysis to determine the current value of the
4 amounts that are payable to the debtor.

5 **SECTION 9. AMENDMENT.** Section 34-15-06 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **34-15-06. Recovery of civil money penalties.** A civil money penalty assessed under
8 this chapter is payable fifteen days after service on the employer, by first-class mail, of notice of
9 imposition of the civil money penalty. If an order for child support was issued by a court in this
10 state, failure to pay a civil money penalty may be punished as a ~~civil~~ contempt of court by the
11 court that issued an order for child support imposed upon a newly hired employee whose hiring
12 was not reported timely, completely, and correctly. If an order for child support was issued by a
13 court or administrative tribunal in another state or if there is no current order for child support
14 for the employee, failure to pay a civil money penalty may be punished as a ~~civil~~ contempt of
15 court by any court of this state with jurisdiction over the employer.

16 **SECTION 10.** A new subsection to section 39-03.1-28 of the North Dakota Century
17 Code is created and enacted as follows:

18 A government child support enforcement agency for purposes of establishing
19 paternity or establishing, modifying, or enforcing a child support obligation of the
20 member.

21 **SECTION 11. AMENDMENT.** Section 50-09-08.5 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **50-09-08.5. Securing assets to satisfy child support.** In acting as the official agency
24 of the state in administering the child support program under title IV-D, in cases in which there
25 is past-due child support, the state agency may secure assets to satisfy any current support
26 obligation and the past-due amount by issuing writs of execution under chapter 28-21 or
27 domestic relations orders that comply with federal law regarding pensions. Those writs of
28 execution or domestic relations orders may be used to secure or seize property including:

- 29 1. Periodic or lump sum payments from:
- 30 a. An agency administering unemployment compensation benefits, workforce
31 safety and insurance benefits, or other benefits; and

1 b. Judgments, settlements, and gaming proceeds otherwise belonging to the
2 obligor, or payable upon the obligor's demand;

3 2. Assets of the obligor held in financial institutions; and

4 3. Public and private retirement funds.

5 **SECTION 12. AMENDMENT.** Section 50-09-33 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-09-33. (~~Effective through June 30, 2005~~) Continuing appropriation -**

8 **Cooperative agreements for child support enforcement services.** All federal funds and
9 other income generated by the state agency under a cooperative agreement with one or more
10 county child support agencies for centralized administration of child support enforcement
11 services, or with an Indian tribe for child support enforcement services, is appropriated on a
12 continuing basis for the sole purpose of hiring additional staff and payment of other expenses
13 as necessary to carry out the state agency's duties under the agreements.

14 **SECTION 13.** A new subsection to section 54-52-26 of the North Dakota Century Code
15 is created and enacted as follows:

16 A government child support enforcement agency for purposes of establishing
17 paternity or establishing, modifying, or enforcing a child support obligation of the
18 member.