

HOUSE BILL NO. 1443

Introduced by

Representatives Vetter, Beltz, Christensen, Cory, Fegley, Hagert, Rohr, M. Ruby

Senators Barta, Clemens, Meyer, Weston

1 A BILL for an Act to amend and reenact section 14-09-09.7 of the North Dakota Century Code,
2 relating to child support guidelines as they relate to unemployment and overtime.

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 health and human services shall establish child support guidelines
8 to assist courts in determining the amount a parent should be expected to contribute
9 toward 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 not
12 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 and provide a procedure for courts to
20 determine an updated amount if the obligor parent becomes unemployed.

21 e. Include consideration of extended periods of time a minor child spends with the
22 child's obligor parent.

- 1 f. Authorize a rebuttal of the presumption provided in subsection 4 based on the
2 proportionate net income of the obligor and the obligee when the net income of
3 the obligee is at least three times higher than the net income of the obligor.
- 4 g. Include consideration of an obligated party's responsibility for health insurance
5 coverage or other medical support under section 14-09-08.10.
- 6 2. The guidelines may not take into consideration ~~cases of atypical~~ overtime wages or
7 nonrecurring bonuses over which the obligor does not have significant influence or
8 control.
- 9 3. The department shall accept and compile pertinent and reliable information from any
10 available source in order to establish the child support guidelines. Copies of the
11 guidelines must be made available to courts, state's attorneys, and upon request, to
12 any other state or county officer or agency engaged in the administration or
13 enforcement of this chapter.
- 14 4. There is a rebuttable presumption that the amount of child support that would result
15 from the application of the child support guidelines is the correct amount of child
16 support. The presumption may be rebutted if a preponderance of the evidence in a
17 contested matter establishes, applying criteria established by the child support agency
18 which take into consideration the best interests of the child, that the child support
19 amount established under the guidelines is not the correct amount of child support. A
20 written finding or a specific finding on the record must be made if the court determines
21 that the presumption has been rebutted. The finding must:
- 22 a. State the child support amount determined through application of the guidelines;
23 b. Identify the criteria that rebut the presumption of correctness of that amount; and
24 c. State the child support amount determined after application of the criteria that
25 rebut the presumption.
- 26 5. The department shall institute a new rulemaking proceeding under section 28-32-02
27 relating to the child support guidelines to ensure that the application of the guidelines
28 results in the determination of appropriate child support award amounts. The initial
29 rulemaking proceeding must be commenced with a notice of proposed adoption,
30 amendment, or repeal by August 1, 1998, and subsequent rulemaking proceedings
31 must be so commenced at least once every four years thereafter. Before commencing

- 1 any rulemaking proceeding under this section, the department shall convene a drafting
2 advisory committee that includes two members of the legislative assembly appointed
3 by the chairman of the legislative management.
- 4 6. The guidelines established under this section may include a separate amount of child
5 support for the child's health insurance coverage, reimbursement for public health
6 coverage provided under chapter 50-29, and other medical support.