

HOUSE BILL NO. 1308

Introduced by

Representatives Roers Jones, Bahl, Satrom, VanWinkle, Vetter

Senator Hogue

1 | A BILL for an Act to amend and reenact ~~section~~sections 14-08.1-06 and 50-09-08.6 of the North
2 | Dakota Century Code, relating to suspension of recreational licenses for delinquent child
3 | support payments; ~~and~~ to provide for retroactive application; and to provide a contingent
4 | expiration date.

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

6 | **SECTION 1. AMENDMENT.** Section 14-08.1-06 of the North Dakota Century Code is
7 | amended and reenacted as follows:

8 | **14-08.1-06. Suspension of ~~occupational, professional, or recreational~~ license for**
9 | **nonpayment of child support or failure to obey subpoena.**

10 | When considering a contempt citation against a child support obligor who is in arrears in
11 | child support in an amount greater than three times the monthly child support obligation and the
12 | obligor is not current in a court-established plan to repay the unpaid child support arrears, or
13 | who has failed, after receiving appropriate notice, to comply with a subpoena relating to a
14 | paternity or child support matter, the court shall address and make specific findings on the issue
15 | of whether the obligor has or may obtain ~~an occupational, professional, or recreational~~
16 | ~~certificate, permit, or license that the court may withhold or suspend. The court may withhold or~~
17 | ~~suspend any~~ a certificate, permit, or license issued by or on behalf of the state or any of its
18 | licensing authorities or occupational or professional boards, which the obligor is required to
19 | obtain prior to engaging in the obligor's occupation or profession lottery, by tag, or electronically
20 | by the director of the game and fish department. The court may withhold or suspend any
21 | certificate, permit, or license issued by lottery ~~or~~ by tag, or electronically by the director of the
22 | game and fish department, which the obligor is required to obtain prior to engaging in a
23 | recreational activity. Following a decision to withhold or suspend an obligor's certificate, permit,
24 | or license for failure to pay child support, the court shall notify the obligor that the decision

1 becomes final thirty days after the notification unless the obligor satisfies or makes
2 arrangements to pay the entire outstanding payment due. Following a decision to withhold or
3 suspend an obligor's certificate, permit, or license for failure to comply with a subpoena relating
4 to a paternity or child support matter, the court shall notify the obligor that the decision becomes
5 final unless the obligor complies with the subpoena within a time set by the court. The court
6 shall notify the ~~appropriate licensing authority, occupational or professional board, or the~~
7 ~~director of the game and fish department~~director of the game and fish department of the court's
8 decision to withhold or suspend an obligor's certificate, permit, or license. A certificate, permit,
9 or license withheld or suspended by an order issued under this section may be reissued only by
10 order of the court. An appeal by an obligor who has had a certificate, permit, or license
11 suspended under this section is an appeal from the court's order and may not be appealed to
12 the ~~licensing authority, occupational or professional board, or the~~ director of the game and fish
13 department.

14 **SECTION 2. AMENDMENT.** Section 50-09-08.6 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-09-08.6. Suspension of ~~occupational, professional,~~ recreational, motor vehicle**
17 **operator, and vehicle licenses and registrations for nonpayment of child support or**
18 **failure to obey subpoena.**

19 1. As used in this section:

20 a. "License" means:

21 (1) ~~Any certificate, permit, or license issued by an agency of the state or a~~
22 ~~political subdivision of the state which the obligor is required to obtain prior~~
23 ~~to engaging in the obligor's occupation or profession;~~

24 ~~(2)~~ Any certificate, permit, or license issued by an agency of the state which the
25 obligor is required to obtain prior to engaging in a recreational activity; and

26 ~~(3)~~(2) Any operator's license or vehicle license or registration which the obligor is
27 required to obtain prior to operating or owning a vehicle in this state. As
28 used in this section, "vehicle" includes any motor vehicle as defined in
29 section 39-01-01, aircraft, snowmobile, motorboat, or personal watercraft.

30 b. "Licensee" means a person who has applied for or currently possesses a license.

- 1 c. "Licensing authority" means an agency of the state or a political subdivision of
2 the state that issues a license, including ~~occupational or professional boards,~~ the
3 game and fish department, and the department of transportation.
- 4 d. "Restrict", as it relates to the operator's license of an obligor or a person who fails
5 to comply with a subpoena, includes the authority of the state agency to
6 authorize the issuance, upon request for good cause, of a restricted operator's
7 license that is solely for the use of a motor vehicle during the licensee's normal
8 working hours.
- 9 2. The state agency, directly or through agents and child support agencies, may withhold,
10 restrict, or suspend one or more licenses issued to:
- 11 a. A person who has failed, after receiving proper notice, to comply with a subpoena
12 relating to a paternity or child support matter;
- 13 b. An obligor who is listed on the arrears registry; or
- 14 c. An obligor who is not in compliance with an existing payment plan that has been
15 negotiated between the obligor and the state agency under this section or in
16 exchange for the state agency refraining from taking an enforcement action
17 against the obligor.
- 18 3. Before withholding, restricting, or suspending a license under subdivision a or b of
19 subsection 2, the state agency shall send a notice to the licensee by first-class mail to
20 the licensee's last-known address stating that the licensee has thirty days after the
21 date of the notice to comply with the subpoena, satisfy the arrearage in full, or
22 negotiate a payment plan with the state agency under this section. The notice must
23 further state that the licensee may contest the action of the state agency by making a
24 written request for a court hearing under subsection 5 within ten days of the date of
25 the notice.
- 26 4. Upon notice to the licensee, the state agency may withhold, restrict, or suspend a
27 license under subdivision c of subsection 2 at any time if the licensee fails to comply
28 with a payment plan negotiated under this section. A copy of the state agency's order
29 to withhold, restrict, or suspend a license must be sent to the licensee by first-class
30 mail to the licensee's last-known address. The order must state that the licensee may

- 1 contest the action of the state agency by making a written request for a court hearing
2 under subsection 5 within ten days of the date of the order.
- 3 5. A request for a hearing under this section must be made to the court that issued or
4 considered the child support order. If a child support order was issued by a court or
5 administrative tribunal in another jurisdiction, the request may be made to any court of
6 this state which has jurisdiction to enforce that order or, if no court of this state has
7 jurisdiction to enforce that order, in any court of this state with jurisdiction over the
8 licensee.
- 9 6. In a contest under this section, the court shall affirm the action of the state agency to
10 withhold, restrict, or suspend a license unless the court finds that the state agency's
11 decision was arbitrary, unreasonable, or capricious.
- 12 7. The state agency shall notify the appropriate licensing authority that the state agency
13 has withheld, restricted, or suspended a license under this section. A license that is
14 withheld, restricted, or suspended by the state agency under this section may be
15 reinstated only by the state agency after the licensee complies with the subpoena,
16 satisfies the arrearage in full, or enters into a payment plan with the state agency
17 under this section.
- 18 8. An obligor and the state agency may enter into a payment plan under which the
19 obligor agrees to satisfy the obligor's total child support obligation, including arrears,
20 within a period not to exceed ten years. A payment plan under this section must
21 require the obligor to make an immediate payment to the state disbursement unit in an
22 amount equal to five percent of the total arrears owed by the obligor or five hundred
23 dollars, whichever is greater. The state agency may waive or reduce the immediate
24 payment that is due under a payment plan if the obligor's current or most recent
25 monthly support obligation is less than five hundred dollars. The state agency may
26 require that a payment plan under this section include satisfaction of all court-ordered
27 child support obligations of the obligor. The obligor's current or most recent monthly
28 support obligation under section 14-09-09.30 must be considered when determining
29 the duration of a payment plan under this section and the payments due under the
30 agreement. A payment plan under this section is not a modification of any child
31 support obligation of the obligor and does not bar judicial review of a child support

- 1 order under section 14-09-08.4 or other enforcement actions by the obligee or the
2 state agency.
- 3 9. An action of the state agency to withhold, restrict, or suspend a license under this
4 section may not be appealed to the state agency or to the licensing authority, including
5 an appeal under chapter 28-32. Section 50-09-14 does not apply to actions taken by
6 the state agency under this section.
- 7 10. Except for statistical purposes, an entry on the driving record or abstract of a
8 restriction or suspension under this section after the restriction or suspension ceases
9 may not be available to the public other than by order of a court of competent
10 jurisdiction.
- 11 11. A licensing authority and any person acting on its behalf is not liable for any actions
12 taken to withhold, restrict, or suspend a license under this section. This section does
13 not limit the ability of a licensing authority to withhold, restrict, or suspend a license on
14 any other grounds authorized by law.

15 **SECTION 3. RETROACTIVE APPLICATION.** This Act applies retroactively to child support
16 arrears accrued before the effective date of this Act.

17 **SECTION 4. CONTINGENT EXPIRATION DATE.** Section 1 of this Act is effective until the
18 date the executive director of the department of health and human services notifies the
19 legislative council that the enactment of sections 1 and 2 of this Act causes the state to be out
20 of compliance with 42 U.S.C. 666(a)(16), and after that date is ineffective.