

Introduced by

Judiciary Committee

(At the request of the Department of Health and Human Services)

1 A BILL for an Act to amend and reenact subsection 3 of section 14-09-08.1, section 14-09-08.2,
2 subsection 2 of section 14-09-08.11, section 14-09-08.21, subsection 2 of section 14-09-09.32,
3 subsection 16 of section 50-09-02, and section 50-09-36 of the North Dakota Century Code,
4 relating to establishment and enforcement of child support; and to repeal section 50-09-32 of
5 the North Dakota Century Code, relating to enforcement of child support.

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

7 **SECTION 1. AMENDMENT.** Subsection 3 of section 14-09-08.1 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 3. Whenever there is failure to make the payments as required, the clerk of court, upon
10 request of the obligee or any employee of the child support agency, shall send notice
11 of the arrears by first-class mail, with affidavit of service, to the person required to
12 make the payments, or request a district judge of the judicial district to issue a citation
13 for contempt of court against the person who has failed to make the payments. The
14 citation may be served on that person by first-class mail with affidavit of service to the
15 person's last-known address.

16 **SECTION 2. AMENDMENT.** Section 14-09-08.2 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **14-09-08.2. Support for children after majority - Retroactive application.**

19 1. A judgment or order requiring the payment of child support until the child attains
20 majority continues as to the child until the end of the month during which the child is
21 graduated from high school or attains the age of nineteen years, whichever occurs
22 first, if:
23 a. The child is enrolled and attending high school and is eighteen years of age
24 before the date the child is expected to be graduated; and

- 1 b. The child resides with the person to whom the duty of support is owed.
- 2 2. A judgment or order may require payment of child support after majority under
3 substantially the circumstances described in subsection 1.
- 4 3. The person to whom the duty of support is owed under either subsection 1 or 2 may
5 file an ~~affidavit~~ declaration with the ~~district court and provide a copy to the child~~
6 support agency stating that the requirements of subsection 1 are met, the school in
7 which the child is enrolled, and the anticipated date of the child's graduation. Upon
8 filing of the ~~affidavit~~ declaration, the child support resumes pursuant to subsection 1 or
9 pursuant to the terms of a judgment or order described in subsection 2. A fee may not
10 be charged for filing ~~such an affidavit~~ the declaration.
- 11 4. The child support agency shall serve the ~~affidavit~~ declaration by first-class mail upon
12 the person owing the duty of support. If at any time thereafter the person owing the
13 duty of support files a motion with the court, supported by that person's
14 ~~affidavit~~ declaration that the child is no longer enrolled in or attending high school or is
15 no longer residing with the person to whom the duty of support is owed, the court shall
16 determine if the child is enrolled in and attending high school and residing with the
17 person to whom the duty of support is owed and shall enter an order accordingly. The
18 duty of support terminates by operation of law if the person to whom the duty is owed
19 files a declaration with the child support agency confirming the requirements of
20 subsection 1 are no longer met.
- 21 5. This section applies to child support orders concerning children described in
22 subsection 1 or 2, regardless of the date of entry of the order.
- 23 6. This section does not preclude the entry of an order for child support which continues
24 after the child reaches age eighteen, if the parties agree, or if the court determines the
25 support to be appropriate.
- 26 7. For purposes of this section:
- 27 a. A child is treated as being in school during summer vacation if the child was
28 enrolled in and attending school and did not graduate from high school at the end
29 of the school period immediately preceding the summer vacation; and
- 30 b. A child ~~who is currently enrolled in school~~ is not considered to have graduated,
31 even if all required coursework and examinations have been completed, until the

1 ceremony is held by the school to commemorate the child's graduation. For good
2 cause shown by the individual owing the duty of support, the court may
3 determine the child graduated upon completion of all required coursework and
4 examinations if the time between completion of coursework and examinations
5 and the ceremony exceeds ninety days.

6 **SECTION 3. AMENDMENT.** Subsection 2 of section 14-09-08.11 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 2. The obligor may contest the withholding provided for in subdivision e of subsection 1
9 by filing a request for a hearing within ten days of the date of the national medical
10 support notice issued under section 14-09-08.20. If the obligor contests that
11 withholding, the court shall:

12 a. ~~Hold a hearing within ten working days after the date of the request; and~~

13 b. ~~Confirm~~ confirm the withholding in the absence of a finding:

14 ~~(1)~~a. Of a mistake of fact; or

15 ~~(2)~~b. ~~That the~~The obligee is required to provide health insurance coverage pursuant to
16 section 14-09-08.10.

17 **SECTION 4. AMENDMENT.** Section 14-09-08.21 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **14-09-08.21. Termination of parental rights - Duty of support.**

20 ~~A termination of parental rights does not terminate the duty of either parent to support the~~
21 ~~child before the child's adoption unless that duty is specially terminated by order of the court~~
22 ~~after notice~~Notice of a proposed termination or relinquishment is of parental rights must be given
23 to the department of health and human services in the manner appropriate for the service of
24 process in a civil action in this state. A termination of parental rights terminates a childmonthly
25 ~~support obligation under this section~~but does not relieve a parent of the duty to pay any unpaid
26 child support.

27 **SECTION 5. AMENDMENT.** Subsection 2 of section 14-09-09.32 of the North Dakota
28 Century Code is amended and reenacted as follows:

29 2. In a judgment for divorce or other relief under this title in any matter in which the child
30 and both of the child's parents do not reside together, a court shall establish a child
31 support obligation unless the child support agency requests the issue of child support

1 be reserved. Notwithstanding subsection 1, the court may issue a stay of any further
2 accruals under a child support order if the court finds the stay would be in the best
3 interests of the child. Avoidance of income withholding or the requirement to make any
4 child support payment through the state disbursement unit is not a proper basis to stay
5 a child support obligation under this subsection. A child support obligation that is
6 stayed under this subsection may be reinstated on a prospective basis as provided
7 under the terms of the stay or at any time by order of the court or upon
8 affidavit declaration of any party. The party filing the affidavit declaration shall provide a
9 copy of the affidavit declaration to any other party to the action and to the state
10 disbursement unit.

11 **SECTION 6. AMENDMENT.** Subsection 16 of section 50-09-02 of the North Dakota
12 Century Code is amended and reenacted as follows:

- 13 16. Act as the official agency of the state in the administration of the child support
14 enforcement program and medical support enforcement program in conformity with
15 title IV-D. In administering the child support enforcement and medical support
16 enforcement programs, the state agency may contract with any public or private
17 agency or person to discharge the state agency's duties ~~and must maintain an office in~~
18 ~~each of the eight planning regions of the state.~~

19 **SECTION 7. AMENDMENT.** Section 50-09-36 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **50-09-36. Protest period.**

22 Except as authorized by the obligor, the state agency shall hold any funds collected under
23 section 28-21-05.2, 50-09-35, or 50-09-40 and may not disburse the funds as a collection of
24 child support until the time has expired for requesting a review by a court under section
25 50-09-14 or the conclusion of the review, whichever is later. ~~Interest does not accrue under~~
26 ~~section 28-20-34 after the funds are received by the state agency.~~

27 **SECTION 8. REPEAL.** Section 50-09-32 of the North Dakota Century Code is repealed.