

Fifty-sixth
Legislative Assembly
of North Dakota

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

may apply to the court for an order compelling ~~the obligor~~ a parent to furnish information sufficient to accomplish the review.

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

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

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

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

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

annuity and retirement benefits, but excluding public assistance benefits administered under state law.

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

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

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

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