

Introduced by

1 A BILL for an Act to create and enact two new sections to chapter 50-09 of the North Dakota
2 Century Code, relating to county payment of costs of the child support agency and employment
3 of duly appointed special assistant attorneys general; to amend and reenact subdivision a of
4 subsection 1 of section 14-08.1-05.1, section 14-08.1-08, subsection 4 of section 14-09-08.1,
5 subsection 1 of section 14-09-08.5, subsection 3 of section 14-09-08.7, subsection 1 of section
6 14-09-08.8, sections 14-09-08.9, 14-09-08.11, 14-09-08.13, 14-09-08.14, 14-09-08.16,
7 14-09-08.18, 14-09-09.7, 14-09-09.10, 14-09-09.13, 14-09-09.15, 14-09-09.16, 14-09-09.17,
8 14-09-09.18, 14-09-09.24, 14-09-09.25, 14-09-09.27, 14-09-09.29, and 14-09-25, subsection 3
9 of section 14-17-18, subsection 9 of section 14-19-01, subsection 2 of section 14-19-03,
10 subsection 4 of section 14-19-08, sections 35-34-01, 35-34-02, 35-34-03, and 35-34-04,
11 subsection 1 of section 35-34-05, subsection 1 of section 35-34-06, sections 35-34-07,
12 35-34-08, 35-34-09, and 35-34-10, subsection 3 of section 50-01.2-00.1, sections 50-03-10 and
13 50-09-01, subsection 16 of section 50-09-02, sections 50-09-02.4, 50-09-03, 50-09-08,
14 50-09-08.2, and 50-09-08.3, subsection 1 of section 50-09-08.4, subsection 2 of section
15 50-09-14, sections 50-09-15.1, 50-24.1-03.1, 50-24.1-03.2, and 52-06-06.1, and subsection 3 of
16 section 57-38.3-04, relating to state administration of the child support enforcement system; to
17 provide for correction of statutory references; and to provide an effective date.

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

19 **SECTION 1. AMENDMENT.** Subdivision a of subsection 1 of section 14-08.1-05.1 of
20 the North Dakota Century Code is amended and reenacted as follows:

21 a. Pay past-due support in accordance with a plan approved by the court or the
22 ~~public authority~~ child support agency;

23 **SECTION 2. AMENDMENT.** Section 14-08.1-08 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **14-08.1-08. Certification of records.** The clerk of court and any authorized agent of
2 the ~~public authority or a~~ child support agency, in any circumstance or proceeding requiring
3 proof of the contents of the official records of the state regarding any information maintained in
4 the state case registry of the automated data processing system established under section
5 50-09-02.1, may certify the content of those records. A certification provided under this section
6 is prima facie evidence of the contents of those records.

7 **SECTION 3. AMENDMENT.** Subsection 4 of section 14-09-08.1 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 4. The court of its own motion or on motion of a the child support agency or the
10 state's attorney of the county of venue, the county of the recipient's residence, or
11 the county of the obligor's residence may cause a certified copy of any support
12 order in the action to be transcribed and filed with the clerk of the district court of
13 any county in this state in which the obligee or the obligor may reside from time to
14 time. Thereafter, this section applies as if the support order were issued by the
15 district court of the county to which the support order is transcribed. No fee may be
16 charged for transcribing or filing a certified copy of any support order under this
17 section.

18 **SECTION 4. AMENDMENT.** Subsection 1 of section 14-09-08.5 of the North Dakota
19 Century Code is amended and reenacted as follows:

- 20 1. The child support agency shall provide written notice that a child support order
21 being enforced by the child support agency may be subject to review under
22 section ~~16 of chapter 148 of the 1989 Session Laws or section~~ 14-09-08.4. The
23 notice may be sent by first-class mail to the obligor and the obligee, at the
24 addresses they have most recently provided to the child support agency, at least
25 thirty-five days before the commencement of the review.

26 **SECTION 5. AMENDMENT.** Subsection 3 of section 14-09-08.7 of the North Dakota
27 Century Code is amended and reenacted as follows:

- 28 3. If the child support agency has made a determination to seek an amendment in the
29 amount of child support, the notice must be mailed at least thirty-five days before
30 the date of a hearing on a motion for amendment made by the child support
31 agency under section ~~16 of chapter 148 of the 1989 Session Laws or section~~

14-09-08.4, and must inform the obligor and the obligee of the right of each to challenge that determination by opposing that amendment before the court. The notice to the obligor must be accompanied by:

- a. A proposed modification of the child support order to provide for payment of child support in the amount required under the child support guidelines;
- b. A document by which the obligor may consent to the proposed modification; and
- c. An address and telephone number which the obligor may contact to receive information from or schedule a meeting with representatives of the child support agency.

SECTION 6. AMENDMENT. Subsection 1 of section 14-09-08.8 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon a determination by a the child support agency, made under section ~~46 of chapter 148 of the 1989 Session Laws or section~~ 14-09-08.4, that it may or must seek amendment of a child support order, the child support agency may file and serve a motion and supporting documents.

SECTION 7. AMENDMENT. Section 14-09-08.9 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.9. Request for review - Notice of right to request review. An obligor or an obligee may request review under section ~~46 of chapter 148 of the 1989 Session Laws or section~~ 14-09-08.4, by applying to the child support agency for child support services, and indicating, in the manner there provided, a desire to have a child support order reviewed. Each judgment or order issued by a court in this state which includes an order for child support must include a statement advising of the right to request a review under this section. If a party to a child support matter is receiving services from the child support agency and an order for current child support has issued out of that matter, the child support agency shall provide notice of the right to request a review or further review of that child support order, to the obligor and obligee, not more than three years after the most recent child support order, review of that child support order, or notice of right to request a review of that child support order.

SECTION 8. AMENDMENT. Section 14-09-08.11 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.11. Eligible child - Employer to permit enrollment.

1. When an obligor is required to cover a minor child as a beneficiary under section 14-09-08.10, the child is eligible for health insurance coverage as a dependent of the obligor until the child's eighteenth birthday or until further order of the court. If health insurance coverage required under section 14-09-08.10 is available through an income payer, the income payer must:
 - a. Permit the obligor to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions;
 - b. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the obligee;
 - c. If the obligor is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application by the ~~public authority~~ child support agency, subject to subsection 2, whenever the child receives:
 - (1) Benefits through temporary assistance for needy families or foster care under chapter 50-09, or medical assistance under chapter 50-24.1; or
 - (2) Services provided upon application of an obligee to the child support agency;
 - d. Not disenroll or eliminate coverage for any child unless the income payer is provided satisfactory written evidence that:
 - (1) The order issued under section 14-09-08.10 is no longer in effect;
 - (2) The child is or will be enrolled in comparable coverage that will take effect no later than the effective date of disenrollment; or
 - (3) The income payer has eliminated family health coverage for all of its employees;
 - e. Withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage and pay this amount to the health insurance provider; and
 - f. If the amount required to be withheld under subdivision e, either alone or when added to the total of any withholding required by an order issued under

section 14-09-09.15, exceeds fifty percent of the obligor's disposable income,
withhold fifty percent of the obligor's disposable income.

2. Before making application under subdivision c of subsection 1, the ~~public authority~~
child support agency shall provide notice to the obligor that the obligor may contest
the proposed application by filing a written request for a hearing within ten days of
the date the notice is issued. If the obligor contests the application for coverage, a
hearing must be held, and the court shall require the ~~public authority~~ child support
agency to make application if it determines coverage for the child is available to the
obligor at reasonable cost.
3. Withholding required by an order issued under section 14-09-09.15 must be
satisfied before any payment is made to the health insurance provider. If the
amount remaining is insufficient to pay the obligor's share of premiums for health
insurance coverage, the obligor may authorize additional withholding to pay the
obligor's share. If the obligor does not authorize additional withholding, and the
health insurance coverage will lapse as a result, the income payer must promptly
inform the clerk of court or ~~public authority~~ child support agency that issued the
order under section 14-09-09.15 of the insufficiency.

SECTION 9. AMENDMENT. Section 14-09-08.13 of the North Dakota Century Code is
amended and reenacted as follows:

14-09-08.13. Application for service. The child support agency ~~responsible for~~
~~support enforcement~~ shall take necessary steps to implement, modify, and enforce an order for
dependent health insurance whenever the children receive benefits through a demonstration
project established under section 50-06-01.8, temporary assistance for needy families or foster
care under chapter 50-09 or medical assistance under chapter 50-24.1, or upon application of
the obligee to the child support agency and payment by the obligee of any required application
fee.

SECTION 10. AMENDMENT. Section 14-09-08.14 of the North Dakota Century Code
is amended and reenacted as follows:

14-09-08.14. ~~Public authority~~ Child support agency to establish criteria. The
~~public authority~~ child support agency shall establish criteria to identify cases involving children
who received benefits through a demonstration project established under section 50-06-01.8,

1 temporary assistance for needy families or foster care under chapter 50-09 or medical
2 assistance under chapter 50-24.1, or where an application to the child support agency has been
3 completed by an obligee and where there is a high potential for obtaining medical support
4 based on:

- 5 1. Evidence that health insurance may be available to the obligor at reasonable cost;
6 and
- 7 2. Facts that are sufficient to warrant modification of the existing court order to include
8 health insurance coverage for a dependent child.

9 **SECTION 11. AMENDMENT.** Section 14-09-08.16 of the North Dakota Century Code
10 is amended and reenacted as follows:

11 **14-09-08.16. Requests for information from income payor.**

- 12 1. ~~A~~ The child support agency ~~or the public authority~~ may mail a request for
13 information to the income payor in any matter in which it secures reliable
14 information that the income payor may be indebted to an obligor. The request
15 must identify the obligor by name, and, if known, address and social security
16 number.
- 17 2. Within ten days after receipt of a request for information issued under subsection 1,
18 an income payor shall provide the requester with a written statement informing the
19 requester whether or not the income payor is, or within the thirty days immediately
20 preceding receipt of the request has been, an income payor with respect to that
21 obligor. If the income payor is, or within the previous thirty days has been, an
22 income payor with respect to that obligor, the income payor shall furnish
23 information to the requester including:
 - 24 a. The amount of any income currently paid to the obligor, calculated on a
25 monthly basis;
 - 26 b. The total amount of income paid to the obligor in the twelve months preceding
27 the month in which the request is received;
 - 28 c. Information regarding any health insurance that may be made available to the
29 obligor's children through the income payor;
 - 30 d. The social security number under which payment of any income by the
31 income payor to the obligor is reported;

e. The obligor's address; and

f. If the income payor is no longer an income payor with respect to that obligor,
the date of last payment and any forwarding address.

3. Any income payor failing to comply with any requirements of this section may be
punished for contempt of court. The court shall first afford such income payor a
reasonable opportunity to purge itself of contempt.

4. A proceeding against an income payor under this section may be commenced
upon motion by a the child support agency ~~or the public authority~~ and must be
commenced within ninety days after the income payor's act or failure to act upon
which such proceeding is based.

SECTION 12. AMENDMENT. Section 14-09-08.18 of the North Dakota Century Code
is amended and reenacted as follows:

**14-09-08.18. Health insurance reimbursements received by but not owed to
obligor to be paid over - Finding of contempt - Treatment as delinquent child support.**

1. A payment for services rendered by a medical provider to an obligor's dependent
which is directed to the obligor in the form of reimbursements from health
insurance must be paid to the medical provider, custodial parent, or ~~public~~
~~authority~~ child support agency when the reimbursement is not owed to the obligor.

2. Any child support order that requires an obligor to provide health insurance is
deemed to include the requirements of this section. An obligor retaining insurance
reimbursement not owed to the obligor may be found in contempt of a child support
order that requires the obligor to provide health insurance.

3. Any insurance reimbursement received by the obligor, but not owed to the obligor,
may be treated as delinquent child support thirty days after receipt by the obligor if
not sooner paid to the medical provider, custodial parent, or ~~public authority~~ child
support agency, as their interests may appear, and is subject to all remedies
available under this code for the collection of delinquent child support.

SECTION 13. AMENDMENT. Section 14-09-09.7 of the North Dakota Century Code is
amended and reenacted as follows:

14-09-09.7. (Contingent effective date - See note) Child support guidelines.

- 1 1. The department of human services shall establish child support guidelines to assist
2 courts in determining the amount a parent should be expected to contribute toward
3 the support of the child under this section. The guidelines must:
 - 4 a. Include consideration of gross income. For purposes of the guidelines, gross
5 income does not include an employee benefit over which the employee does
6 not have significant influence or control over the nature or amount unless:
 - 7 (1) That benefit may be liquidated; and
 - 8 (2) Liquidation of that benefit does not result in the employee incurring an
9 income tax penalty.
 - 10 b. Authorize an expense deduction for determining net income.
 - 11 c. Designate other available resources to be considered.
 - 12 d. Specify the circumstances that should be considered in reducing support
13 contributions on the basis of hardship.
 - 14 e. Include consideration of extended periods of time a minor child spends with
15 the child's obligor parent.
- 16 2. The department shall accept and compile pertinent and reliable information from
17 any available source in order to establish the child support guidelines. Copies of
18 the guidelines must be made available to courts, state's attorneys, and upon
19 request, to any other state or county officer or agency engaged in the
20 administration or enforcement of this chapter.
- 21 3. There is a rebuttable presumption that the amount of child support that would result
22 from the application of the child support guidelines is the correct amount of child
23 support. The presumption may be rebutted if a preponderance of the evidence in a
24 contested matter establishes, applying criteria established by the ~~public authority~~
25 child support agency which take into consideration the best interests of the child,
26 that the child support amount established under the guidelines is not the correct
27 amount of child support. A written finding or a specific finding on the record must
28 be made if the court determines that the presumption has been rebutted. The
29 finding must:
 - 30 a. State the child support amount determined through application of the
31 guidelines;

- b. Identify the criteria that rebut the presumption of correctness of that amount;
and
- c. State the child support amount determined after application of the criteria that rebut the presumption.

4. The department shall institute a new rulemaking proceeding under section 28-32-02 relating to the child support guidelines to ensure that the application of the guidelines results in the determination of appropriate child support award amounts. The initial rulemaking proceeding must be commenced with a notice of proposed adoption, amendment, or repeal by August 1, 1998, and subsequent rulemaking proceedings must be so commenced at least once every four years thereafter. Before commencing any rulemaking proceeding under this section, the department shall convene a drafting advisory committee that includes two members of the legislative assembly appointed by the chairman of the legislative council.

(Contingent effective date - See note) Child support guidelines.

1. The department of human services shall establish child support guidelines to assist courts in determining the amount 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. For purposes of the guidelines, gross income does not include an employee benefit over which the employee does not have significant influence or control over the nature or amount unless:
 - (1) That benefit may be liquidated; and
 - (2) Liquidation of that benefit does not result in the employee incurring an income tax penalty.
 - b. Authorize an expense deduction for determining net income.
 - c. Designate other available resources to be considered.
 - d. Specify the circumstances that should be considered in reducing support contributions on the basis of hardship.
 - e. Include consideration of extended periods of time a minor child spends with the child's obligor parent.

f. Authorize a rebuttal of the presumption provided in subsection 3 in cases of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control.

2. The department shall accept and compile pertinent and reliable information from any available source in order to establish the child support guidelines. Copies of the guidelines must be made available to courts, state's attorneys, and upon request, to any other state or county officer or agency engaged in the administration or enforcement of this chapter.

3. There is a rebuttable presumption that the amount of child support that would result from the application of the child support guidelines is the correct amount of child support. The presumption may be rebutted if a preponderance of the evidence in a contested matter establishes, applying criteria established by the ~~public authority~~ child support agency which take into consideration the best interests of the child, that the child support amount established under the guidelines is not the correct amount of child support. A written finding or a specific finding on the record must be made if the court determines that the presumption has been rebutted. The finding must:

- a. State the child support amount determined through application of the guidelines;
- b. Identify the criteria that rebut the presumption of correctness of that amount; and
- c. State the child support amount determined after application of the criteria that rebut the presumption.

4. The department shall institute a new rulemaking proceeding under section 28-32-02 relating to the child support guidelines to ensure that the application of the guidelines results in the determination of appropriate child support award amounts. The initial rulemaking proceeding must be commenced with a notice of proposed adoption, amendment, or repeal by August 1, 1998, and subsequent rulemaking proceedings must be so commenced at least once every four years thereafter. Before commencing any rulemaking proceeding under this section, the department shall convene a drafting advisory committee that includes two

members of the legislative assembly appointed by the chairman of the legislative council.

SECTION 14. AMENDMENT. Section 14-09-09.10 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.10. Definitions. For the purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Business day" means every day that is not a Saturday or legal holiday.
2. "Child support" means payments for the support of children and combined payments for the support of children and spouses or former spouses, however denominated, if the payment is required by the order of a court or other governmental agency having authority to issue such orders.
3. "Child support agency" means the ~~county social service board, any combination of county social service boards, or any entity created by a county social service board or any combination of county social service boards,~~ department of human services in execution of ~~the county social service board's~~ its duties ~~under subsection 5 of section 50-09-03~~ pursuant to the state plan submitted under chapter 50-09 in conformance with title IV-D of the Social Security Act, as amended [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].
4. "Delinquent" means a situation which occurs on the first working day after the day upon which a child support payment was identified as due and unpaid, and the total amount of unpaid child support is at least equal to the amount of child support payable in one month.
5. "Disposable income" means gross income less deductions required by law for taxes and social security.
6. "Employer" means income payor.
7. "Health insurance" includes fees for service, health maintenance organization, preferred provider organization, comprehensive health association plan, accident and health insurance policies, group health plans as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical

coverage may be provided in a policy, plan, or contract which may legally be sold or provided in this state.

8. "Income" means any form of payment, regardless of source, owed to an obligor, including any earned, unearned, taxable or nontaxable income, 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 includes an obligor if the obligor 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.

~~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 15. AMENDMENT. Section 14-09-09.13 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.13. Procedure - Notice to obligor. If immediate income withholding under section 14-09-09.24 has not been implemented and an obligor is delinquent, if an obligee's

request for income withholding is approved, or if a court changes its finding that there is good cause not to require immediate income withholding, the clerk of court or ~~public authority~~ child support agency shall serve the notice required under this section upon the obligor whenever issuing an income withholding order. The notice must state:

1. That the obligor is delinquent in the payment of child support, that a request for withholding has been made by the obligee and approved by a the child support agency, or that there is no longer good cause not to require immediate income withholding, as the case may be, and the obligor is therefore subject to an income withholding order on all income.
2. The amount of child support owed and the amount of arrearage, if any.
3. The total amount of money that will be withheld by the income payor from the obligor's income in each month as determined under section 14-09-09.30.
4. That the income payor may withhold an additional sum of three dollars to cover the income payor's expenses.
5. That the income withholding order has been issued without further order of the court.
6. That the obligor may contest the issuance of the income withholding order by filing a written request for hearing within ten days of the date of the notice made under this section.
7. That if the obligor contests the income withholding order pursuant to section 14-09-09.14, a hearing will be held and the court will determine and issue an order consistent with the requirements of section 14-09-09.14.
8. That the income withholding order applies to any current or subsequent income payor or period of employment.

SECTION 16. AMENDMENT. Section 14-09-09.15 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.15. Form - Effect of income withholding order. The income withholding order must be issued in the name of the state of North Dakota in the standard format for notice of the order prescribed by the secretary of the United States department of health and human services under authority of 42 U.S.C. 666(b)(6)(A)(ii), contain only the information necessary for the income payer to comply with the income withholding order, and be directed to all current

1 and subsequent income payers of the obligor. The income withholding order is binding on the
2 income payer until further notice by the clerk or ~~the public authority~~ child support agency and
3 applies to all current and subsequent periods in which income is owed the obligor by the
4 income payer. The income withholding order has priority over any other legal process against
5 the same income.

6 **SECTION 17. AMENDMENT.** Section 14-09-09.16 of the North Dakota Century Code
7 is amended and reenacted as follows:

8 **14-09-09.16. Service of income withholding order on income payer.**

- 9 1. The clerk of court or ~~the public authority~~ child support agency shall serve the
10 income withholding order on the income payer by first-class mail or in any other
11 manner agreed to by the income payer, and upon the obligor by first-class mail to
12 the obligor's last-known address.
- 13 2. If the obligor is subject to immediate income withholding under section
14 14-09-09.24, an income withholding order must be served on any known income
15 payer within two business days of the date of receipt of information necessary to
16 carry out income withholding. Subject to the provisions of section 14-09-09.17, if
17 service of an income withholding order has been or may have been properly made
18 under this section, an income withholding order must be served on any
19 subsequently identified income payer within two business days of the date of
20 receipt of information necessary to carry out income withholding.
- 21 3. An income withholding order may also be issued and served at the request of the
22 obligor.
- 23 4. The income payer shall withhold a stated amount, determined under section
24 14-09-09.30, from the obligor's income at the time the obligor is paid for transmittal
25 to the ~~public authority~~ child support agency within seven business days of the date
26 the obligor is paid, together with a report of the date upon which the amount was
27 withheld from the obligor's income.
- 28 5. The income payer may also withhold and retain an additional sum of three dollars
29 per month from the obligor's income to cover expenses involved in transmitting
30 payment.

6. The amount to be withheld, including amounts to cover expenses involved in transmitting payment, may not exceed fifty percent of the obligor's disposable income from this income payer, but a payment of an amount less than the ordered amount must be accompanied by a written calculation disclosing any of the obligor's income and disposable income which is payable by the income payer.
7. The income payer shall begin withholding no later than the first payday that occurs after service of the income withholding order.
8. If the income payer is served with more than one income withholding order issued under this chapter on a single obligor and the combined total amount to be paid under the income withholding orders exceeds fifty percent of the obligor's disposable income, the income payer shall withhold the maximum amount permitted and transmit to the ~~public authority~~ child support agency that portion thereof which the obligee's claim bears to the combined total of all claims.
9. The income payer shall notify the clerk of court or the ~~public authority~~ child support agency in writing of the termination of a duty to pay income to the obligor within seven business days of the termination. The notification must include the name and address of the obligor's subsequent income payer, if known.
10. If the income payer is subject to income withholding orders for more than one obligor, the income payer may combine in a single payment the amounts for all obligors who have been ordered to pay the ~~public authority~~ child support agency with identification of the amount attributed to each obligor.

SECTION 18. AMENDMENT. Section 14-09-09.17 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.17. Amendment - Termination of income withholding order. Upon amendment or termination of an income withholding order, the clerk of court or the ~~public authority~~ child support agency shall send appropriate notice to the income payor. An income withholding order is to be amended by the clerk or the ~~public authority~~ child support agency when the total amount of money to be withheld is changed by elimination of arrearages or by court-ordered change in amount of child support. An income withholding order is to be terminated when the duty to support ceases and all child support arrearages have been paid. When two or more income payors have been subjected to income withholding orders with

1 respect to a child support obligation, the clerk or ~~the public authority~~ child support agency shall
2 suspend the income withholding order directed to one or more income payors, provided that the
3 amount of child support withheld by the remaining income payor or payors equals the amount
4 determined under section 14-09-09.30. The clerk or ~~the public authority~~ child support agency
5 shall immediately reinstate any suspended income withholding order should any child support
6 obligation of the obligor thereafter become delinquent. The clerk or ~~the public authority~~ child
7 support agency shall provide a copy of the reinstated income withholding order, by first-class
8 mail, to the obligor and the income payor.

9 **SECTION 19. AMENDMENT.** Section 14-09-09.18 of the North Dakota Century Code
10 is amended and reenacted as follows:

11 **14-09-09.18. Interstate income withholding - Initiation by this state to other state.**

12 On application of a resident of this state, an obligee or an obligor of a support order issued by
13 this state, or an agency to which an obligee has assigned support rights, the ~~public authority~~
14 child support agency shall request the child support enforcement agency of another state in
15 which the obligor of a support order derives income to enter the order for the purpose of
16 obtaining income withholding against such income. The ~~public authority~~ child support agency
17 shall make that request within twenty days of the later of the date income withholding is
18 determined appropriate or the date of receipt of any information necessary to carry out
19 withholding. The ~~public authority~~ child support agency shall compile and transmit to the child
20 support agency of the other state all documentation required to enter an order for this purpose.
21 The ~~public authority~~ child support agency shall also transmit to the child support agency of the
22 other state certified copies of any subsequent modifications of the support order. If the ~~public~~
23 ~~authority~~ child support agency receives notice that the obligor is contesting the income
24 withholding in another state, ~~it~~ the child support agency shall immediately notify the individual
25 obligee of the date, time, and place of the hearings and of the obligee's right to attend.

26 **SECTION 20. AMENDMENT.** Section 14-09-09.24 of the North Dakota Century Code
27 is amended and reenacted as follows:

28 **14-09-09.24. Immediate income withholding.**

- 29 1. Except as provided in subsection 2, each judgment or order which requires the
30 payment of child support, issued or modified on or after January 1, 1990, subjects

the income of the obligor to income withholding, regardless of whether the obligor's support payments are delinquent.

2. If a party to a proceeding, who would otherwise be subject to immediate income withholding under subsection 1, demonstrates, and the court finds that there is good cause not to require immediate withholding, or if the parties, including any assignee of support rights, reach a written agreement that provides for an alternative arrangement for assuring the regular payment of child support, the court need not subject the income of the obligor to immediate withholding.
3. A finding that there is good cause not to require immediate income withholding must be based on at least:
 - a. A written determination that, and an explanation of why, implementing immediate income withholding would not be in the best interests of the child;
 - b. Proof of timely payment of previously ordered support; and
 - c. A requirement that the obligor keep the clerk and ~~the public authority~~ child support agency informed of any employment-related health insurance to which the obligor has access.
4. A written agreement for an alternative arrangement for assuring the regular payment of child support is effective only if the agreement at least, in addition to other conditions the parties agree to:
 - a. Provides that the obligor shall keep the clerk and ~~the public authority~~ child support agency informed of any employment-related health insurance to which the obligor has access;
 - b. Describes the provisions by which regular payment of child support is assured; and
 - c. Is reviewed and approved by the court and entered into the court's records.

SECTION 21. AMENDMENT. Section 14-09-09.25 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.25. Requests by obligee for income withholding - Approval - Procedures and standards.

- 1 1. An obligee may apply to ~~a~~ the child support agency for approval of an income
- 2 withholding request. The income of the obligor becomes subject to income
- 3 withholding on the date an approved request is made.
- 4 2. The ~~public authority~~ child support agency shall establish procedures and standards
- 5 for the approval of obligee requests for income withholding. The standards
- 6 established must include consideration of:
- 7 a. An obligor's threat to discontinue child support payments; and
- 8 b. An obligor's having made child support payments sufficient to avoid a
- 9 delinquency but insufficient to conform to the ordered amount.
- 10 3. Upon application of an obligee requesting income withholding, the child support
- 11 agency shall promptly approve or disapprove the request. The child support
- 12 agency may not approve the obligee's request in a case where the court has
- 13 determined that there is good cause not to require immediate income withholding
- 14 unless the court first changes its determination.

15 **SECTION 22. AMENDMENT.** Section 14-09-09.27 of the North Dakota Century Code
16 is amended and reenacted as follows:

17 **14-09-09.27. Attorney represents people's interest in the enforcement of child**
18 **support obligations.** In any action brought to establish paternity, secure repayment of
19 governmental benefits paid, secure current or future support of children, or establish, enforce,
20 or modify a child support obligation, the ~~public authority or a~~ child support agency may employ
21 or contract with a licensed attorney. An attorney so employed or contracted represents the
22 interest of the people of the state of North Dakota in the enforcement of child support
23 obligations. Nothing in this section may be construed to modify confidentiality required of the
24 ~~public authority or a~~ child support agency. Representation by the employed or contracted
25 attorney may not be construed to create an attorney-client relationship between the attorney
26 and any party or witness to the action, other than the people of the state of North Dakota,
27 regardless of the name in which the action is brought.

28 **SECTION 23. AMENDMENT.** Section 14-09-09.29 of the North Dakota Century Code
29 is amended and reenacted as follows:

1 **14-09-09.29. Coordination of income withholding activities.** The ~~public authority~~
2 child support agency shall assume responsibility for administration of income withholding and
3 the receipt and disbursement of child support payments.

4 **SECTION 24. AMENDMENT.** Section 14-09-25 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-09-25. State disbursement unit - Duties - Continuing appropriation.**

- 7 1. The ~~public authority~~ child support agency shall establish a state disbursement unit
8 for the collection and disbursement of payments of child support. The state
9 disbursement unit is responsible for the collection and disbursement of all
10 payments under child support orders.
- 11 2. The ~~public authority~~ child support agency may contract with any public or private
12 entity for any service provided by the state disbursement unit. The state
13 disbursement unit may employ technology and agents to allow receipt of child
14 support payments at locations and times when state disbursement unit staff are not
15 available.
- 16 3. The state disbursement unit shall use automated procedures, electronic processes,
17 and computer-driven technology, including the statewide automated data
18 processing system established under section 50-09-02.1, to the maximum extent
19 feasible, efficient, and economical, for the collection and distribution of child
20 support payments.
- 21 4. The state disbursement unit shall account for and disburse all support payments
22 received by it, maintain necessary records, and develop procedures for providing
23 information to the parties, including the obligor and obligee, regarding actions
24 taken and, at least annually, regarding child support payments collected and
25 distributed. The state disbursement unit shall adopt procedures for the
26 maintenance and retention of records of child support payments, and for the
27 storage and destruction of records when the support obligation is satisfied or is
28 terminated.
- 29 5. The state disbursement unit shall deposit all child support payments received in the
30 state treasury. All payments so deposited, except those payments assigned to the
31 state, are appropriated to the ~~public authority~~ department of human services as a

standing and continuing appropriation for the purpose of making disbursements to obligees entitled to the child support payments collected.

6. Notwithstanding section 28-20-36, the state disbursement unit shall disburse collected child support payments in conformity with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.]. Any disbursement made in error is not a gift and must be repaid. The ~~public authority~~ child support agency may take any action not inconsistent with law to secure repayment of any disbursement made in error. Interest accrued on an unpaid child support obligation is child support. To the extent consistent with the requirements of title IV-D, a payment received with respect to a child support arrearage must first be applied to accrued interest on the earliest arrearage, and then to the principal of that arrearage. The ~~public authority~~ child support agency may calculate judgment interest accrued only on child support obligations that first became arrearages after July 1, 2002. The ~~public authority~~ child support agency shall enter in its records judgment interest on child support obligations that first became arrearages on or before July 1, 2002, only if a court has ordered the interest amount calculated by some individual or entity other than the ~~public authority~~ child support agency and approved the calculated amount. For purposes of this subsection, arrearage means an unpaid child support obligation that was due in a month prior to the current month.

7. Unless notice has otherwise been provided, the state disbursement unit shall provide notice to the obligor, the obligee, and any income payer that payment must be made to the state disbursement unit.

SECTION 25. AMENDMENT. Subsection 3 of section 14-17-18 of the North Dakota Century Code is amended and reenacted as follows:

3. An attorney appearing on behalf of a the child support agency or a county social service board, or the state's attorney, represents the interests of the people of the state of North Dakota in the enforcement of child support obligations. Representation by such an attorney may not be construed to create an attorney-client relationship between the attorney and any party or witness to the

action, other than the people of the state of North Dakota, regardless of the name in which the action is brought.

SECTION 26. AMENDMENT. Subsection 9 of section 14-19-01 of the North Dakota Century Code is amended and reenacted as follows:

9. "Voluntary paternity establishment service entity" means the state department of health and ~~any~~ the child support agency, as that term is defined in section 14-09-09.10.

SECTION 27. AMENDMENT. Subsection 2 of section 14-19-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The witness, or any agent of a the child support agency, verifies that the parents have been provided, before the acknowledgement of paternity is signed:

a. Written materials about paternity establishment, including the manner in which the relationship of father and child established under this chapter may be vacated; and

b. A written and oral description of the rights, responsibilities, and legal consequences of acknowledging paternity.

SECTION 28. AMENDMENT. Subsection 4 of section 14-19-08 of the North Dakota Century Code is amended and reenacted as follows:

4. In cases involving applications for child support services made to a the child support agency which require paternity establishment, determine if a voluntary paternity acknowledgment has been filed with the state department of health.

SECTION 29. AMENDMENT. Section 35-34-01 of the North Dakota Century Code is amended and reenacted as follows:

35-34-01. Definitions. For purposes of this chapter:

1. "Account" has the meaning provided in section 50-09-01.

2. "Child support" has the meaning provided in section 14-09-09.10.

3. "Child support agency" has the meaning provided in section 14-09-09.10.

4. "Financial institution" has the meaning provided in section 50-09-01.

~~4.~~ 5. "Obligee" has the meaning provided in section 14-09-09.10.

~~5.~~ 6. "Obligor" has the meaning provided in section 14-09-09.10.

~~6.~~ 7. "Past-due support" has the meaning provided in section 14-09-09.10.

7. ~~"Public authority" has the meaning provided in section 14-09-09.10.~~

8. "Vehicle" has the meaning provided in section 39-01-01.

9. "Vessel" has the meaning provided in section 20.1-01-02.

SECTION 30. AMENDMENT. Section 35-34-02 of the North Dakota Century Code is amended and reenacted as follows:

35-34-02. Lien for past-due child support. When a past-due child support obligation is at least six times the monthly child support obligation and the obligor is not current in a court-established plan to repay the past-due support, the ~~public authority~~ child support agency may establish a lien on personal property as provided in this chapter.

SECTION 31. AMENDMENT. Section 35-34-03 of the North Dakota Century Code is amended and reenacted as follows:

35-34-03. Vehicle lien.

1. In the case of a vehicle, the ~~public authority~~ child support agency may establish a lien by filing a notice of lien with the director of the department of transportation. The notice must be in a form prescribed by the director and contain a description of the vehicle, the name and last-known address of the obligor, and any other information required by the director. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the director shall demand in writing the surrender of the certificate of title from the obligor or a superior lienholder for the purpose of recording the lien on the certificate of title. Upon receipt of the certificate of title, the director shall record the fact of the lien and the identity of the lienholder on the certificate of title and deliver the certificate of title to the vehicle's owner or, if a superior lienholder had possession of the certificate of title, to that superior lienholder. If the obligor or superior lienholder fails to surrender the certificate of title within fifteen days after the written demand by the director, the director shall notify the ~~public authority seeking the lien~~ child support agency.
3. Upon receipt of notice from the director that the obligor or superior lienholder has not responded to the demand for surrender of a title certificate, the ~~public authority~~

1 child support agency may obtain an order from a court of competent jurisdiction
2 requiring the certificate of title to be delivered to the court so that a lien may be
3 properly recorded.

4 4. No fee may be charged for services provided under this section.

5 5. The director may determine a certificate of title to have been fraudulently procured
6 if endorsed by a previous owner who, at the time the endorsement was made:

7 a. Was an obligor who owed past-due child support; and

8 b. Had been served with a copy of a notice of lien filed under this section with
9 respect to the vehicle described on that certificate of title.

10 6. A lien under this section is perfected when the lien is recorded on the certificate of
11 title.

12 **SECTION 32. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **35-34-04. Vessel lien.**

15 1. In the case of a vessel, the ~~public authority~~ child support agency may establish a
16 lien by filing a notice of lien with the secretary of state if the value of the vessel is
17 estimated to be at least twice the cost of establishing the lien. The notice must
18 contain a description of the make, model designation, and serial number of the
19 vessel, including its identification or registration number, if any, and the name,
20 social security number, and last-known address of the obligor. The notice of lien
21 must state that the child support obligation is past due and that a copy of the notice
22 of lien has been served on the obligor by first-class mail at the obligor's last-known
23 address.

24 2. Upon filing of the notice of lien in accordance with this section, the notice of lien
25 must be indexed by the secretary of state in the central indexing system and may
26 be enforced and foreclosed in the same manner as a security agreement under the
27 provisions of title 41.

28 3. The secretary of state shall remove and destroy the lien notification statement in
29 the same manner as provided for other liens in section 11-18-14 for the recorder.

30 4. A lien under this section is perfected when notice of the lien is filed with the
31 secretary of state.

- 1 5. The ~~public authority~~ child support agency may file an amendment to correct the
2 social security number of the obligor, to correct the spelling of the obligor's name,
3 or to correct or change the address of the obligor.

4 **SECTION 33. AMENDMENT.** Subsection 1 of section 35-34-05 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 1. In the case of an account maintained in a financial institution, the ~~public authority~~
7 child support agency may establish a lien on the account by serving a notice of lien
8 upon the financial institution in the manner provided for service of a summons in a
9 civil action. The notice must be in a form prescribed by the ~~public authority~~ child
10 support agency and contain the name, social security number, or other taxpayer
11 identification number and last-known address of the obligor, the amount of
12 past-due support for which a lien is claimed, and any other information required by
13 the ~~public authority~~ child support agency. The notice of lien must state that the
14 child support obligation is past due and that a copy of the notice of lien has been
15 served on the obligor by first-class mail at the obligor's last-known address.

16 **SECTION 34. AMENDMENT.** Subsection 1 of section 35-34-06 of the North Dakota
17 Century Code is amended and reenacted as follows:

- 18 1. In the case of personal property that does not consist of a vehicle, a vessel, or an
19 account maintained in a financial institution, the ~~public authority~~ child support
20 agency may establish a lien on such personal property by filing a notice of lien with
21 the office of the recorder in the county in which the personal property may be found
22 or with the secretary of state. The notice must particularly describe the property to
23 be subjected to the lien and the name and last-known address of the obligor. The
24 notice of lien must state that the child support obligation is past due and that a
25 copy of the notice of lien has been served on the obligor by first-class mail at the
26 obligor's last-known address.

27 **SECTION 35. AMENDMENT.** Section 35-34-07 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **35-34-07. Priority of liens.** A lien perfected under this chapter may not be subordinate
30 to any other lien except a lien that was perfected before the child support lien was perfected.

1 The ~~public authority~~ child support agency may, upon request of the obligor, subordinate the
2 child support lien.

3 **SECTION 36. AMENDMENT.** Section 35-34-08 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **35-34-08. Satisfaction of lien.** Upon payment of all past-due child support obligations,
6 the ~~public authority~~ child support agency shall provide, within a reasonable time, an appropriate
7 satisfaction or release of a lien arising under this chapter.

8 **SECTION 37. AMENDMENT.** Section 35-34-09 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **35-34-09. Immunity from liability.** A person in possession of, or obligated with
11 respect to, property, who, upon demand of the ~~public authority~~ child support agency, surrenders
12 the property or discharges the obligation to the ~~public authority~~ child support agency is immune
13 from any liability to the obligor or other person arising from the surrender or payment. The court
14 shall award reasonable attorney's fees and costs against any person who commences an
15 action that is subsequently dismissed by reason of the immunity granted by this section.

16 **SECTION 38. AMENDMENT.** Section 35-34-10 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **35-34-10. Action to enforce lien.** In any case in which there has been a refusal or
19 neglect to pay child support, the ~~public authority~~ child support agency, in addition to any other
20 relief, may file an action in any court of competent jurisdiction to enforce a lien under this
21 chapter. The filing of an action does not preclude the ~~public authority~~ child support agency from
22 pursuit of any other means of enforcement available under state or federal law.

23 **SECTION 39. AMENDMENT.** Subsection 3 of section 50-01.2-00.1 of the North
24 Dakota Century Code is amended and reenacted as follows:

- 25 3. "Locally administered economic assistance programs" means those primary
26 economic assistance programs that need to be accessible to all citizens of the
27 state through a county social service office and include:
- 28 a. Temporary assistance for needy families;
 - 29 b. ~~Child support enforcement programs;~~
 - 30 e. Programs established under section 50-06-01.8;
 - 31 e. c. Employment and training programs;

- e. d. Child care assistance programs;
- f. e. Medical assistance, including early periodic screening, diagnosis, and treatment;
- g. f. Food stamp programs, including employment and training programs;
- h. g. Refugee assistance programs;
- i. h. Basic care services;
- j. i. Energy assistance programs; and
- k. j. Information and referral.

SECTION 40. AMENDMENT. Section 50-03-10 of the North Dakota Century Code is amended and reenacted as follows:

50-03-10. County commissions to make recommendations. Before August first of each year, the boards of county commissioners of the counties shall make a collective recommendation to the department concerning the distribution between counties, of the social service block grant funds; and the general fund equivalents of social service block grant funds; ~~and child support incentive funds~~ available to the department for distribution to county social service boards. The department shall consider the recommendation of the county commissioners in determining the distribution to the county social service boards, in the following calendar year, of the social service block grant funds; and general fund equivalents of social service block grant funds; ~~and child support incentive funds~~ available to the department for that purpose.

SECTION 41. AMENDMENT. Section 50-09-01 of the North Dakota Century Code is amended and reenacted as follows:

50-09-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, share account, share draft account, savings account, time deposit account, securities account, money market mutual fund account, or any other account or arrangement that reflects an owner's share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, to the extent the owner is permitted to redeem the share or interest by an order for payment to a third party.

2. "Assistance" means money payments with respect to, or goods and services provided for dependent children, including payments for the care of unmarried mothers or fathers and their infants.
3. "Child support" has the meaning provided in section 14-09-09.10.
- ~~4. "Child support agency" has the meaning provided in section 14-09-09.10.~~
- ~~5.~~ 5. "County agency" means the county social service board in each of the counties of the state.
- ~~6.~~ 5. "Dependent child" means any needy child who is described in a state plan for aid and services to needy families submitted pursuant to title IV-A.
- ~~7.~~ 6. "Financial institution" means:
 - a. A depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)];
 - b. An institution-affiliated party, as defined in section 3(u) of the Federal Deposit Insurance Act [12 U.S.C. 1813(u)];
 - c. Any federal credit union or state credit union, as defined in section 101 of the Federal Credit Union Act [12 U.S.C. 1752], including an institution-affiliated party of such a credit union, as defined in section 206(r) of the Federal Credit Union Act [12 U.S.C. 1786(r)]; and
 - d. Any benefit association, insurance company, safe deposit company, securities intermediary, money market mutual fund, or similar entity authorized to do business in the state.
- ~~8.~~ 7. "Obligor" has the meaning provided in section 14-09-09.10.
- ~~9.~~ 8. "Past due support" has the meaning provided in section 14-09-09.10.
- ~~40.~~ 9. "Secretary" means the secretary of the United States department of health and human services.
- ~~44.~~ 10. "Securities account" has the meaning provided in section 41-08-41.
- ~~42.~~ 11. "Securities intermediary" has the meaning provided in section 41-08-02, but does not include a clearing corporation.
- ~~43.~~ 12. "State agency" means the North Dakota department of human services.
- ~~44.~~ 13. "Title IV-A" means title IV-A of the Social Security Act, as adopted by title I of Pub. L. 104-193 [110 Stat. 2110 et seq.; 42 U.S.C. 601 et seq.].

1 ~~45.~~ 14. "Title IV-B" means title IV-B of the Social Security Act [Pub. L. 90-248, title II,
2 sec. 240(c); 81 Stat. 911; 42 U.S.C. 620 et seq.], as amended.

3 ~~46.~~ 15. "Title IV-D" means title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat.
4 2351; 42 U.S.C. 651 et seq.].

5 ~~47.~~ 16. "Title IV-E" means title IV-E of the Social Security Act [Pub. L. 96-272, title I,
6 sec. 101(a)(1); 94 Stat. 501; 42 U.S.C. 670 et seq.], as amended.

7 **SECTION 42. AMENDMENT.** Subsection 16 of section 50-09-02 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 16. Act as the official agency of the state in the administration of the child support
10 enforcement program and medical support enforcement program in conformity with
11 title IV-D ~~and to direct and supervise county administration of that program. In~~
12 administering the child support enforcement and medical support enforcement
13 programs, the state agency may contract with any public or private agency or
14 person to discharge the state agency's child support enforcement duties.

15 **SECTION 43. AMENDMENT.** Section 50-09-02.4 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **50-09-02.4. State case registry.**

18 1. The statewide automated data processing system established under
19 section 50-09-02.1 must include a registry that contains records with respect to:

20 a. Each child support case in which services are being provided by the state
21 agency ~~or a child support agency~~ under title IV-D; and

22 b. Each child support order established or modified in this state on or after
23 October 1, 1998.

24 2. The case records must use standardized data elements for both parents and
25 contain other information the secretary requires.

26 3. Each case record concerning a case with respect to which services are being
27 provided by the state agency ~~or a child support agency~~ under title IV-D must:

28 a. Include payment records consistent with the requirements of title IV-D, which
29 include:

30 (1) The amount of current monthly or other periodic support owed under
31 the order and other amounts, including arrearages, interest, late

- 1 payment penalties, fees, and amounts determined under
- 2 section 14-09-09.30, due or past due under the order;
- 3 (2) Any amount described in paragraph 1 that has been collected;
- 4 (3) The distribution of collected amounts;
- 5 (4) The birthdate and the social security number of any child for whom an
- 6 order requires the provision of support; and
- 7 (5) The amount necessary to satisfy any lien imposed under chapter 35-34
- 8 or established as a judgment lien under section 14-08.1-05.
- 9 b. Be established, maintained, updated, and monitored on the basis of:
- 10 (1) Information on administrative actions and administrative and judicial
- 11 proceedings and orders relating to paternity and child support;
- 12 (2) Information obtained from comparison with federal, state, and local
- 13 sources of information;
- 14 (3) Information on child support collections and distributions; and
- 15 (4) Any other relevant information.

16 **SECTION 44. AMENDMENT.** Section 50-09-03 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **50-09-03. Duties of county agency.** In the administration of assistance under this
19 chapter, a county agency shall:

- 20 1. Administer the temporary assistance for needy families program in its county,
- 21 subject to the rules of the state agency.
- 22 2. Report to the state agency at such times and in such manner and form as the state
- 23 agency, from time to time, may direct.
- 24 3. Submit annually to the board of county commissioners of each county a budget
- 25 containing an estimate and supporting data, setting forth the amount of money
- 26 needed to carry out the provisions of this chapter.
- 27 4. Cooperate with juvenile courts and licensed children's agencies.
- 28 5. ~~Administer the child support enforcement program under the direction and~~
- 29 ~~supervision of the state agency in conformity with title IV-D. In administering the~~
- 30 ~~program, the county agency shall have the authority to contract with any public or~~
- 31 ~~private agency or person to discharge their child support enforcement duties.~~

6- Administer child and family services under the direction and supervision of the state agency in conformity with title IV-B.

~~7.~~ 6. Administer federal payments for foster care and adoption assistance under the direction and supervision of the state agency in conformity with title IV-E.

SECTION 45. AMENDMENT. Section 50-09-08 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08. Investigations - Power of county agencies, state agency, and employees.

1. In the investigation of applications under the provisions of this chapter, the county agencies, the state agency, and the officials and employees of such agencies charged with the administration and enforcement of this chapter may:

~~1.~~ a. Conduct examinations;

~~2.~~ b. Require the attendance of witnesses and the production of books, records, and papers; and

~~3.~~ c. Make application to the district court of the county to compel the attendance of witnesses and the production of books, records, and papers.

~~4.~~ 2. ~~Request~~ The state agency may request from other state agencies, and county, and local agencies, information deemed necessary to carry out the child support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the state ~~and county~~ agency in locating absent parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the state ~~or county~~ agency with available information relative to the location, income, social security number, and property holdings of the absent parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the state agency who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

- 1 3. The officers and employees designated by the county agencies or the state agency
2 may administer oaths and affirmations.

3 **SECTION 46. AMENDMENT.** Section 50-09-08.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **50-09-08.2. Power of state agency, ~~child support agency,~~ and employees and**
6 **agents.**

- 7 1. In implementing programs under title IV-D, the state agency, ~~the child support~~
8 ~~agencies,~~ and the officials, employees, and agents of ~~such agencies~~ the state
9 agency may:
- 10 a. Conduct examinations;
 - 11 b. Require by subpoena the attendance of witnesses and the production of
12 books, records, and papers;
 - 13 c. Compensate witnesses and individuals producing books, records, including
14 records maintained in automated data bases, and papers in amounts
15 determined by the state agency, not to exceed actual reasonable costs
16 incurred;
 - 17 d. Impose a fiscal sanction of no more than twenty-five dollars for each day
18 against a person who fails to attend as a witness or produce books, records,
19 or papers;
 - 20 e. Require genetic testing of appropriate individuals when necessary in disputed
21 paternity cases, to determine the relationship of parent and child, and:
 - 22 (1) Pay the costs of such testing, subject to recoupment from the alleged
23 father if paternity is established; and
 - 24 (2) Obtain additional testing in any case if an initial test result is contested,
25 upon request and advance payment by the contestant;
 - 26 f. Make application to the district court to compel participation in genetic testing,
27 the attendance of witnesses, the production of books, records, and papers,
28 and the payment of fiscal sanctions imposed under this section;
 - 29 g. Notwithstanding any provision of law making the records confidential, obtain
30 access, including automated access in the case of records maintained in
31 automated data bases, to:

- 1 (1) Records of other state and local government agencies, including:
 - 2 (a) Vital statistics, including records of marriage, birth, and divorce;
 - 3 (b) Local tax and revenue records, including information on
 - 4 residence address, employer, income, and assets;
 - 5 (c) Records concerning real and titled personal property;
 - 6 (d) Records of occupational and professional licenses and records
 - 7 concerning the ownership and control of corporations,
 - 8 partnerships, and other business entities;
 - 9 (e) Employment security records;
 - 10 (f) Workers compensation bureau records identifying the last-known
 - 11 address of a person who owes or who is owed support, the
 - 12 wage-loss benefits, permanent partial impairment benefits, death
 - 13 benefits, or additional benefits that person has received or is
 - 14 entitled to receive from the bureau, and whether and where that
 - 15 person is currently employed;
 - 16 (g) Records of all agencies administering public assistance
 - 17 programs;
 - 18 (h) Records of the department of transportation;
 - 19 (i) Corrections records;
 - 20 (j) Law enforcement records; and
 - 21 (k) Subject to an agreement with the state tax commissioner, state
 - 22 tax and revenue records, including information on residence
 - 23 address, employer, income, and assets; and
- 24 (2) Certain records held by private entities with respect to individuals who
- 25 owe or are owed child support, or against or with respect to whom a
- 26 child support obligation is sought, consisting of:
 - 27 (a) The names and addresses of such individuals and the names
 - 28 and addresses of the employers of such individuals, as appearing
 - 29 in customer records of public utilities and cable television
 - 30 companies; and

- 1 (b) Information on assets and liabilities on those individuals held by
- 2 financial institutions;
- 3 h. Enter into agreements with financial institutions doing business in the state,
- 4 and with the assistance, or through the agency, of the secretary, with financial
- 5 institutions doing business in two or more states:
- 6 (1) To develop and operate, in coordination with those financial institutions,
- 7 a data match system, using automated data exchanges to the
- 8 maximum extent feasible, in which each such financial institution is
- 9 required to provide in each calendar quarter the name, record address,
- 10 social security number or other taxpayer identification number, and
- 11 other identifying information for each noncustodial parent who
- 12 maintains an account at such financial institution and who owes
- 13 past-due support, as identified by the state agency by name and social
- 14 security number or other taxpayer number; and
- 15 (2) Under which such financial institution, in response to a notice of lien or
- 16 an execution, will encumber or surrender, as the case may be, assets
- 17 held by such institution on behalf of any noncustodial parent who is
- 18 subject to a lien for unpaid child support;
- 19 i. For purposes of locating parents or alleged parents of children receiving
- 20 services under title IV-D, provide all federal and state agencies conducting
- 21 activities under title IV-D with access to:
- 22 (1) Records of the department of transportation; and
- 23 (2) Law enforcement records; and
- 24 j. Notwithstanding any provision of law making the records confidential:
- 25 (1) Provide access to information identifying the amount of payment
- 26 necessary to obtain the release of a lien taken by the state agency in
- 27 any property to secure the payment of child support; and
- 28 (2) Upon payment of a sufficient amount, satisfy and release that lien.
- 29 2. All information received under this section, if confidential under some other
- 30 provision of law, is subject to the penalties under section 50-06-15 and is
- 31 confidential, except that the information may be used in the administration of any

1 program administered by or under the supervision and direction of the department
2 and as specifically authorized by the rules of the department. Any information
3 received under this section, if not subject to section 44-04-18 and section 6 of
4 article XI of the Constitution of North Dakota in the possession of the person
5 providing the information, is exempt from section 44-04-18 and section 6 of
6 article XI of the Constitution of North Dakota. Any person acting under the
7 authority of the state agency who pursuant to this subsection obtains information
8 from the office of the state tax commissioner, the confidentiality of which is
9 protected by law, may not divulge such information except to the extent necessary
10 for the administration of the child support enforcement program or when otherwise
11 directed by judicial order or otherwise provided by law.

- 12 3. a. As provided in title IV-D, a person is immune from suit or any liability under
13 any federal or state law:
- 14 (1) For any disclosure of information, in any form, made under this section,
15 to the state agency, ~~a county agency~~, or an official, employee, or agent
16 of ~~either the state agency~~;
- 17 (2) For encumbering or surrendering any assets held by a financial
18 institution in response to a notice of lien or an execution issued by the
19 state agency as provided in section 28-21-05.2 and chapter 35-34; or
20 (3) For any other action taken in good faith to comply with the requirements
21 of this section.
- 22 b. The court shall award reasonable attorney's fees and costs against any
23 person who commences an action that is subsequently dismissed by reason
24 of the immunity granted by this section.
- 25 4. The officers and employees designated by the ~~county agencies or the~~ state agency
26 may administer oaths and affirmations.
- 27 5. All employing or contracting entities within this state, including for-profit, nonprofit,
28 and governmental employers, shall provide information on the employment,
29 compensation, and benefits of any individual employed by such entity as an
30 employee or contractor within ten days of a request made under subsection 1 or
31 made by the agency of any other state charged with administration of programs

under title IV-D. An entity that receives a request for which a response is required by this section is subject to a fiscal sanction of twenty-five dollars for each day, beginning on the eleventh day after the request is made and not complied with.

SECTION 47. AMENDMENT. Section 50-09-08.3 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08.3. Administrative enforcement in interstate cases. In acting as the official agency of the state in administering the child support program under title IV-D, the state agency, directly or through agents ~~and county agencies:~~

1. Shall use high-volume automated administrative enforcement, to the same extent as used in intrastate cases, in response to a request made by another state to enforce a child support order, and shall promptly report the results of such enforcement procedure to the requesting state;
2. May transmit requests, by electronic or other means, to other states for assistance in cases involving enforcement of child support orders which include information provided and intended to enable the receiving state to compare information about the case to information in the data bases of the receiving state, and which constitute a certification:
 - a. Of the amount of arrearages, if any, under the child support order; and
 - b. That procedural due process requirements applicable to the case have been complied with;
3. In cases in which the state agency receives requests made by another state to enforce a child support order, ~~shall~~ may not consider that matter a child support case transferred to this state; and
4. Shall maintain records of:
 - a. The number of requests for assistance made by other states;
 - b. The number of cases in which this state collected support in response to requests made by other states; and
 - c. The amount of support collected.

For purposes of this section, the term "high-volume automated administrative enforcement" means, in interstate cases, on request of another state, the identification, by this state, through automated data matches with financial institutions and other entities where assets may be

found, of assets owned by persons who owe child support in another state, and the seizure of such assets, by this state, through levy or other appropriate processes.

SECTION 48. AMENDMENT. Subsection 1 of section 50-09-08.4 of the North Dakota Century Code is amended and reenacted as follows:

1. In acting as the official agency of the state in administering the child support program under title IV-D, the state agency, directly or through agents ~~and county agencies~~, subject to subsection 2, may report periodically to consumer reporting agencies the name of any obligor who owes past-due support and the amount of past-due support owed by the obligor.

SECTION 49. AMENDMENT. Subsection 2 of section 50-09-14 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person aggrieved by an action taken by the state agency ~~or a child support agency~~ under section 14-09-25, this chapter, or chapter 35-34 to establish or enforce a child support order may seek review of the action of the state agency ~~or child support agency~~ in the court of this state that issued or considered the child support order. If an order for child support was issued by a court or administrative tribunal in another state, any person aggrieved by an action taken by the state agency ~~or a child support agency~~ under section 14-09-25, this chapter, or chapter 35-34 to enforce that order may seek review of the action of the state agency ~~or child support agency~~ in any court of this state which has jurisdiction to enforce that order, or if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the necessary parties. Any review sought under this subsection must be commenced within thirty days after the date of action for which review is sought. A person who has a right of review under this subsection may not seek review of the actions of the state agency ~~or child support agency~~ in a proceeding under chapter 28-32.

SECTION 50. AMENDMENT. Section 50-09-15.1 of the North Dakota Century Code is amended and reenacted as follows:

50-09-15.1. Child support incentives account. ~~The child support incentives account is established as a special account in the state treasury~~ balance of the child support initiatives paid to the state by the office of child support enforcement of the United States department of

1 health and human services may only be spent as appropriated by the legislative assembly to
2 carry out the state plan submitted under chapter 50-09 in conformity with title IV-D. One
3 percent of the total amount of child support incentive payments paid to the state by the office of
4 child support enforcement of the United States department of health and human services must
5 be deposited into the child support incentives account. The state agency, within the limits of
6 legislative appropriation, shall distribute the moneys in the child support incentives account as
7 grants to organizations determined eligible by the state agency for the purpose of providing
8 child support-related education of and training for individuals involved in child support
9 enforcement. The state agency, ~~prior to~~ before distributing the moneys in the child support
10 incentives account, shall invite comments regarding the distribution of the moneys from
11 representatives of the North Dakota state's attorneys association and regional child support
12 offices and other interested persons.

13 **SECTION 52.** Two new sections to chapter 50-09 of the North Dakota Century Code
14 are created and enacted as follows:

15 **County payment of costs of state agency.** For years on or after January 1, 2004,
16 each county shall pay the state agency an amount equal to the county's expenditures for
17 administration of the child support program for year 2001 minus any child support incentive
18 payments received by the county during the year 2001. The value of any office space provided
19 by a county at no charge during the year 2001 for administration of the child support program is
20 considered an expenditure under this section unless the county and the state agency agree that
21 the same office space will be provided by the county to the state agency at no charge to the
22 state agency.

23 **Employment of special assistant attorneys general.** The state agency may employ
24 special assistant attorneys general who are duly appointed under section 54-12-08 to carry out
25 the state agency's duties in administering the child support enforcement and medical support
26 enforcement programs. The salary of each special assistant attorney general must be paid by
27 the state agency. An appointment under this section is revocable at the pleasure of the
28 attorney general.

29 **SECTION 53. AMENDMENT.** Section 50-24.1-03.1 of the North Dakota Century Code
30 is amended and reenacted as follows:

1 **50-24.1-03.1. Duties of county agency.** In the administration of the medical
2 assistance program, a county agency shall:

- 3 ~~1. Administer the medical support enforcement program under the direction and~~
4 ~~supervision of the department of human services. In administering the program the~~
5 ~~county agency shall have the authority to contract with any public or private agency~~
6 ~~or person to discharge their medical support enforcement duties.~~
7 ~~2. Make an investigation~~ investigate and record the circumstances of each applicant
8 or recipient of assistance, in order to ascertain the facts supporting the application,
9 or the granting of assistance, and shall obtain such other information as may be
10 required by the rules and regulations of the department of human services.

11 **SECTION 54. AMENDMENT.** Section 50-24.1-03.2 of the North Dakota Century Code
12 is amended and reenacted as follows:

13 **50-24.1-03.2. Investigations - Power of county agencies, department, and**
14 **employees.**

- 15 1. In the investigation of applications under the provisions of this chapter, the county
16 agencies, the department of human services, and the officials and employees of
17 such agencies charged with the administration and enforcement of this chapter
18 may:

- 19 ~~1. a.~~ a. Conduct examinations;
20 ~~2. b.~~ b. Require the attendance of witnesses and the production of books, records,
21 and papers;
22 ~~3. c.~~ c. Make application to the district court of the county to compel the attendance of
23 witnesses and the production of books, records, and papers.

- 24 ~~4. 2. Request~~ The department of human services may request from other state, county,
25 and local agencies information deemed necessary to carry out the medical support
26 enforcement program. All officers and employees of state, county, and local
27 agencies shall cooperate with the department of human services ~~and the county~~
28 ~~agency~~ in locating absent spouses or parents of children to whom an obligation of
29 support is owed or on whose behalf assistance is being provided and, on request,
30 shall supply the department ~~or the county agency~~ with available information
31 relative to the location, income, social security number, and property holdings of

the absent spouse or parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the department of human services who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the medical support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

3. The officers and employees designated by the county agencies or the department of human services may administer oaths and affirmations.

SECTION 55. AMENDMENT. Section 52-06-06.1 of the North Dakota Century Code is amended and reenacted as follows:

52-06-06.1. Weekly benefit reduction for child support.

1. An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes child support obligations as defined under subsection 7. If any such individual discloses that the individual owes child support obligations, and is determined to be eligible for unemployment compensation, the bureau shall notify the state ~~or local~~ child support ~~enforcement~~ agency enforcing such obligation that the individual has been determined to be eligible for unemployment compensation.
2. The bureau shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations as defined under subsection 7:
 - a. The amount specified by the individual to the bureau to be deducted and withheld under this subsection, if neither subdivision b nor c are applicable;
 - b. The amount, if any, determined pursuant to an agreement submitted to the bureau under section 454(20)(B)(i) of the Social Security Act [42 U.S.C. 654(20)(B)(i)] by the state ~~or local~~ child support ~~enforcement~~ agency, unless subdivision c is applicable; or
 - c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is

defined in section 459(i)(5) of the Social Security Act [42 U.S.C. 659(i)(5)],
properly served upon the bureau.

3. Any amount deducted and withheld under subsection 2 must be paid by the bureau to the ~~appropriate state or local~~ child support ~~enforcement~~ agency.
4. Any amount deducted and withheld under subsection 2 must ~~for all purposes~~ be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by such individual to the state ~~or local~~ child support ~~enforcement~~ agency in satisfaction of the individual's child support obligations.
5. For purposes of subsections 1 through 4, the term "unemployment compensation" means any compensation payable under the North Dakota Unemployment Compensation Law, including amounts payable by the bureau pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.
6. This section applies only if appropriate arrangements have been made for reimbursement by the state ~~or local~~ child support ~~enforcement~~ agency for the administrative costs incurred by the bureau under this section which are attributable to child support obligations being enforced by the state ~~or local~~ child support ~~enforcement~~ agency.
7. The term "child support obligations" is defined for purposes of these provisions as including only obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act [42 U.S.C. 654] which has been approved by the secretary of health and human services under part D of title IV of the Social Security Act.
8. The term "state ~~or local~~ child support ~~enforcement~~ agency", as used in these provisions, means any the agency of this state ~~or a political subdivision thereof~~ operating pursuant to a plan described in subsection 7.

SECTION 56. AMENDMENT. Subsection 3 of section 57-38.3-04 of the North Dakota Century Code is amended and reenacted as follows:

3. A claim made by ~~any the~~ child support unit of the department of human services has priority in setting off any refund. Other claims rank by date of certification

1 under section 57-38.3-05 in the office of the commissioner with the claim earlier
2 certified having priority.

3 **SECTION 57. LEGISLATIVE COUNCIL CORRECTION OF STATUTORY**

4 **REFERENCES.** The legislative council may correct references to regional child support
5 agencies and to the public authority as they pertain to the provision of child support
6 enforcement services, or any variation of these terms as appropriate, in any measure enacted
7 by the fifty-eighth legislative assembly.

8 **SECTION 58. EFFECTIVE DATE.** This Act becomes effective on January 1, 2004.