

SENATE BILL NO. 2160

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 14-09 and a new section to
2 chapter 50-09 of the North Dakota Century Code, relating to exempting child support payments
3 from legal process and exempting child support agencies from certain statutory fees; to amend
4 and reenact sections 14-08.1-05 and 14-09-08.16, subsections 1 and 5 of section 14-09-09.3,
5 subsection 2 of section 28-21-05.2, subsection 3 of section 35-34-04, subsections 3 and 5 of
6 section 50-09-08.2, and subsection 2 of section 50-09-14, relating to technical and conforming
7 amendments to child support laws, removal of time limitations on the duration of liens and the
8 issuance of executions, requests for information from an income payor, time for
9 commencement of a contempt proceeding against an income payor, clarifying the contents of
10 an administrative writ of execution, removal of the requirement that the secretary of state
11 charge vessel lien fees in past-due child support matters, and providing for review of child
12 support liens; and to repeal section 35-34-11 of the North Dakota Century Code, relating to
13 review of child support liens.

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

15 **SECTION 1. AMENDMENT.** Section 14-08.1-05 of the 1999 Supplement to the North
16 Dakota Century Code is amended and reenacted as follows:

17 **14-08.1-05. Support order to be judgment.**

- 18 1. Any order directing any payment or installment of money for the support of a child
19 is, on and after the date it is due and unpaid:
- 20 a. A judgment by operation of law, with the full force, effect, and attributes of a
21 judgment of the district court, and must be entered in the judgment docket,
22 upon filing by the judgment creditor or the judgment creditor's assignee of a
23 written request accompanied by a verified statement of arrearage or certified
24 copy of the payment records of the clerk of district court maintained under

section ~~14-09-08.1~~ 50-09-02.1 and an affidavit of identification of the judgment debtor, and otherwise enforced as a judgment. ~~The due and unpaid payments and any judgment entered in the judgment docket pursuant to this section are not subject to the statutes of limitations provided in chapter 28-01, nor may such judgment be canceled pursuant to section 28-20-35;~~

- b. Entitled as a judgment to full faith and credit in any jurisdiction which otherwise affords full faith and credit to judgments of the district court; and
- c. Not subject to retroactive modification.

2. The due and unpaid payments and any judgment entered in the judgment docket pursuant to this section are not subject to the statutes of limitation provided in chapter 28-01. Such judgments may not be canceled pursuant to section 28-20-35. For such judgments, the duration of a lien under section 28-20-13 and the period during which an execution may be issued are not subject to the time limitations in chapters 28-20 and 28-21.

3. Failure to comply with the provisions of a judgment or order of the court for the support of a child constitutes contempt of court. All remedies for the enforcement of judgments apply. A party or the party's assignee may also execute on the judgment, and the obligor is entitled only to the exemptions from process set forth in section 28-22-02.

~~3.~~ 4. This section applies to all child support arrearages, whether accrued before or after the effective date of this section.

SECTION 2. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

Child support exempt from process. A child support obligation owed to an obligee who is a judgment debtor may not be subject to execution, garnishment, attachment, or other process except to satisfy that child support obligation.

SECTION 3. AMENDMENT. Section 14-09-08.16 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A child support agency or the public authority may mail a request for information to the income payor in any matter in which it secures reliable information that the

income payor may be indebted to an obligor. The request must identify the obligor by name, and, if known, address and social security number.

2. Within ten days after receipt of a request for information issued under subsection 1, an income payor shall provide the requester with a written statement informing the requester whether or not the income payor is, or within the thirty days immediately preceding receipt of the request has been, an income payor with respect to that obligor. If the income payor is, or within the previous thirty days has been, an income payor with respect to that obligor, the income payor shall furnish information to the requester including:

- a. The amount of any income currently paid to the obligor, calculated on a monthly basis;
- b. The total amount of income paid to the obligor in the ~~six~~ twelve months preceding the month in which the request is received;
- c. Information regarding any health insurance that may be made available to the obligor's children through the income payor;
- d. The social security number under which payment of any income by the 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 ~~by the court~~ for ~~civil~~ 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 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 4. AMENDMENT. Subsections 1 and 5 of section 14-09-09.3 of the North Dakota Century Code are amended and reenacted as follows:

1. Any income payor failing to comply with ~~any requirements in this section or section 14-09-09.16~~ may be punished ~~by the court~~ for ~~civil~~ contempt of court. The court

shall first afford such income payor a reasonable opportunity to purge itself of such contempt.

5. Any contempt proceeding against an income payor under this section must be commenced within ~~ninety~~ one hundred and eighty days after the income payor's act or failure to act upon which such proceeding is based.

SECTION 5. AMENDMENT. Subsection 2 of section 28-21-05.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A writ of execution issued by the department of human services must be issued as provided in section 28-21-06, except the writ may omit:
- a. The seal of the court;
 - b. The subscription of the clerk of that court;
 - c. The attestation in the name of the judge of the court that entered the judgment;
 - d. A statement of the courts and counties to which the judgment has been transcribed; and
 - ~~e.~~ e. If the writ is issued to a sheriff of a county other than the county in which the judgment is docketed, a date and time of docketing in that sheriff's county.

SECTION 6. AMENDMENT. Subsection 3 of section 35-34-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the register of deeds. ~~The secretary of state shall charge the same filing and information retrieval fees and credit the amounts in the same manner as financing statements filed under chapter 41-09.~~

SECTION 7. A new section to chapter 50-09 of the North Dakota Century Code is created and enacted as follows:

Child support agencies exempt from certain fees. The register of deeds and secretary of state may not charge or collect any fee otherwise prescribed by law from a state or county agency engaged in the establishment of paternity or the establishment, modification, or enforcement of child support orders.

SECTION 8. AMENDMENT. Subsections 3 and 5 of section 50-09-08.2 of the North Dakota Century Code are amended and reenacted as follows:

3. a. As provided in title IV-D, a person is immune from suit or any liability under any federal or state law:
 - (1) For any disclosure of information, in any form, made under this section, to the state agency, a county agency, or an official, employee, or agent of either;
 - (2) For encumbering or surrendering any assets held by a financial institution in response to a notice of lien or an execution issued by the state agency as provided in ~~subsection 7 of section 23-02.1-19~~ 28-21-05.2 and chapter ~~34-15~~ 35-34; or
 - (3) For any other action taken in good faith to comply with the requirements of this section.
- b. The court shall award reasonable attorney's fees and costs against any person who commences an action that is subsequently dismissed by reason of the immunity granted by this section.
5. All employing or contracting entities within this state, including for-profit, nonprofit, and governmental employers, shall provide information on the employment, compensation, and benefits of any individual employed by such entity as an ~~employer~~ employee or contractor within ten days of a request made under subsection 1 or 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 9. 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 ~~or, 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

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

12 **SECTION 10. REPEAL.** Section 35-34-11 of the North Dakota Century Code is
13 repealed.