

July 2002

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

1 14-09-08.4, and must inform the obligor and the obligee of the right of each to  
2 challenge that determination by opposing that amendment before the court. The  
3 notice to the obligor must be accompanied by:

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

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

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

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

19 **14-09-08.9. Request for review - Notice of right to request review.** An obligor or an  
20 obligee may request review under section ~~46 of chapter 148 of the 1989 Session Laws or~~  
21 ~~section~~ 14-09-08.4, by applying to the child support agency for child support services, and  
22 indicating, in the manner there provided, a desire to have a child support order reviewed. Each  
23 judgment or order issued by a court in this state which includes an order for child support must  
24 include a statement advising of the right to request a review under this section. If a party to a  
25 child support matter is receiving services from the child support agency and an order for current  
26 child support has issued out of that matter, the child support agency shall provide notice of the  
27 right to request a review or further review of that child support order, to the obligor and obligee,  
28 not more than three years after the most recent child support order, review of that child support  
29 order, or notice of right to request a review of that child support order.

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

- 1           **14-09-08.11. Eligible child - Employer to permit enrollment.**
- 2           1.    When an obligor is required to cover a minor child as a beneficiary under section
- 3                14-09-08.10, the child is eligible for health insurance coverage as a dependent of
- 4                the obligor until the child's eighteenth birthday or until further order of the court. If
- 5                health insurance coverage required under section 14-09-08.10 is available through
- 6                an income payer, the income payer must:
- 7                a.    Permit the obligor to enroll under family coverage any child who is otherwise
- 8                    eligible for coverage without regard to any open enrollment restrictions;
- 9                b.    If the obligor is enrolled but fails to make application to obtain coverage for the
- 10                child, enroll the child under family coverage upon application by the obligee;
- 11                c.    If the obligor is enrolled but fails to make application to obtain coverage for the
- 12                child, enroll the child under family coverage upon application by the ~~public~~
- 13                ~~authority~~ child support agency, subject to subsection 2, whenever the child
- 14                receives:
- 15                    (1)    Benefits through temporary assistance for needy families or foster care
- 16                    under chapter 50-09, or medical assistance under chapter 50-24.1; or
- 17                    (2)    Services provided upon application of an obligee to the child support
- 18                    agency;
- 19                d.    Not disenroll or eliminate coverage for any child unless the income payer is
- 20                provided satisfactory written evidence that:
- 21                    (1)    The order issued under section 14-09-08.10 is no longer in effect;
- 22                    (2)    The child is or will be enrolled in comparable coverage that will take
- 23                    effect no later than the effective date of disenrollment; or
- 24                    (3)    The income payer has eliminated family health coverage for all of its
- 25                    employees;
- 26                e.    Withhold from the obligor's compensation the obligor's share, if any, of
- 27                premiums for health insurance coverage and pay this amount to the health
- 28                insurance provider; and
- 29                f.    If the amount required to be withheld under subdivision e, either alone or
- 30                when added to the total of any withholding required by an order issued under

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

3 2. Before making application under subdivision c of subsection 1, the ~~public authority~~  
4 child support agency shall provide notice to the obligor that the obligor may contest  
5 the proposed application by filing a written request for a hearing within ten days of  
6 the date the notice is issued. If the obligor contests the application for coverage, a  
7 hearing must be held, and the court shall require the ~~public authority~~ child support  
8 agency to make application if it determines coverage for the child is available to the  
9 obligor at reasonable cost.

10 3. Withholding required by an order issued under section 14-09-09.15 must be  
11 satisfied before any payment is made to the health insurance provider. If the  
12 amount remaining is insufficient to pay the obligor's share of premiums for health  
13 insurance coverage, the obligor may authorize additional withholding to pay the  
14 obligor's share. If the obligor does not authorize additional withholding, and the  
15 health insurance coverage will lapse as a result, the income payer must promptly  
16 inform the clerk of court or ~~public authority~~ child support agency that issued the  
17 order under section 14-09-09.15 of the insufficiency.

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

20 **14-09-08.13. Application for service.** The child support agency ~~responsible for~~  
21 ~~support enforcement~~ shall take necessary steps to implement, modify, and enforce an order for  
22 dependent health insurance whenever the children receive benefits through a demonstration  
23 project established under section 50-06-01.8, temporary assistance for needy families or foster  
24 care under chapter 50-09 or medical assistance under chapter 50-24.1, or upon application of  
25 the obligee to the child support agency and payment by the obligee of any required application  
26 fee.

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

29 **14-09-08.14. ~~Public authority~~ Child support agency to establish criteria.** The  
30 ~~public authority~~ child support agency shall establish criteria to identify cases involving children  
31 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;

- 1 e. The obligor's address; and
- 2 f. If the income payor is no longer an income payor with respect to that obligor,
- 3 the date of last payment and any forwarding address.
- 4 3. Any income payor failing to comply with any requirements of this section may be
- 5 punished for contempt of court. The court shall first afford such income payor a
- 6 reasonable opportunity to purge itself of contempt.
- 7 4. A proceeding against an income payor under this section may be commenced
- 8 upon motion by a the child support agency ~~or the public authority~~ and must be
- 9 commenced within ninety days after the income payor's act or failure to act upon
- 10 which such proceeding is based.

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

13 **14-09-08.18. Health insurance reimbursements received by but not owed to**  
14 **obligor to be paid over - Finding of contempt - Treatment as delinquent child support.**

- 15 1. A payment for services rendered by a medical provider to an obligor's dependent
- 16 which is directed to the obligor in the form of reimbursements from health
- 17 insurance must be paid to the medical provider, custodial parent, or ~~public~~
- 18 ~~authority~~ child support agency when the reimbursement is not owed to the obligor.
- 19 2. Any child support order that requires an obligor to provide health insurance is
- 20 deemed to include the requirements of this section. An obligor retaining insurance
- 21 reimbursement not owed to the obligor may be found in contempt of a child support
- 22 order that requires the obligor to provide health insurance.
- 23 3. Any insurance reimbursement received by the obligor, but not owed to the obligor,
- 24 may be treated as delinquent child support thirty days after receipt by the obligor if
- 25 not sooner paid to the medical provider, custodial parent, or ~~public authority~~ child
- 26 support agency, as their interests may appear, and is subject to all remedies
- 27 available under this code for the collection of delinquent child support.

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

30 **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;



- 1           b. Identify the criteria that rebut the presumption of correctness of that amount;  
2           and  
3           c. State the child support amount determined after application of the criteria that  
4           rebut the presumption.
- 5           4. The department shall institute a new rulemaking proceeding under section  
6           28-32-02 relating to the child support guidelines to ensure that the application of  
7           the guidelines results in the determination of appropriate child support award  
8           amounts. The initial rulemaking proceeding must be commenced with a notice of  
9           proposed adoption, amendment, or repeal by August 1, 1998, and subsequent  
10          rulemaking proceedings must be so commenced at least once every four years  
11          thereafter. Before commencing any rulemaking proceeding under this section, the  
12          department shall convene a drafting advisory committee that includes two  
13          members of the legislative assembly appointed by the chairman of the legislative  
14          council.

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

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

- 1           f.     Authorize a rebuttal of the presumption provided in subsection 3 in cases of  
2                     atypical overtime wages or nonrecurring bonuses over which the obligor does  
3                     not have significant influence or control.
- 4           2.     The department shall accept and compile pertinent and reliable information from  
5                     any available source in order to establish the child support guidelines. Copies of  
6                     the guidelines must be made available to courts, state's attorneys, and upon  
7                     request, to any other state or county officer or agency engaged in the  
8                     administration or enforcement of this chapter.
- 9           3.     There is a rebuttable presumption that the amount of child support that would result  
10                    from the application of the child support guidelines is the correct amount of child  
11                    support. The presumption may be rebutted if a preponderance of the evidence in a  
12                    contested matter establishes, applying criteria established by the ~~public authority~~  
13                    child support agency which take into consideration the best interests of the child,  
14                    that the child support amount established under the guidelines is not the correct  
15                    amount of child support. A written finding or a specific finding on the record must  
16                    be made if the court determines that the presumption has been rebutted. The  
17                    finding must:
- 18                    a.     State the child support amount determined through application of the  
19                             guidelines;
- 20                    b.     Identify the criteria that rebut the presumption of correctness of that amount;  
21                             and
- 22                    c.     State the child support amount determined after application of the criteria that  
23                             rebut the presumption.
- 24           4.     The department shall institute a new rulemaking proceeding under section  
25                    28-32-02 relating to the child support guidelines to ensure that the application of  
26                    the guidelines results in the determination of appropriate child support award  
27                    amounts. The initial rulemaking proceeding must be commenced with a notice of  
28                    proposed adoption, amendment, or repeal by August 1, 1998, and subsequent  
29                    rulemaking proceedings must be so commenced at least once every four years  
30                    thereafter. Before commencing any rulemaking proceeding under this section, the  
31                    department shall convene a drafting advisory committee that includes two

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

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

5 **14-09-09.10. Definitions.** For the purposes of this chapter, unless the context or  
6 subject matter otherwise requires:

- 7 1. "Business day" means every day that is not a Saturday or legal holiday.
- 8 2. "Child support" means payments for the support of children and combined  
9 payments for the support of children and spouses or former spouses, however  
10 denominated, if the payment is required by the order of a court or other  
11 governmental agency having authority to issue such orders.
- 12 3. "Child support agency" means the ~~county social service board, any combination of~~  
13 ~~county social service boards, or any entity created by a county social service board~~  
14 ~~or any combination of county social service boards, department of human services~~  
15 in execution of ~~the county social service board's~~ its duties ~~under subsection 5 of~~  
16 ~~section 50-09-03~~ pursuant to the state plan submitted under chapter 50-09 in  
17 conformance with title IV-D of the Social Security Act, as amended [Pub. L. 93-647;  
18 88 Stat. 2351; 42 U.S.C. 651 et seq.].
- 19 4. "Delinquent" means a situation which occurs on the first working day after the day  
20 upon which a child support payment was identified as due and unpaid, and the  
21 total amount of unpaid child support is at least equal to the amount of child support  
22 payable in one month.
- 23 5. "Disposable income" means gross income less deductions required by law for  
24 taxes and social security.
- 25 6. "Employer" means income payor.
- 26 7. "Health insurance" includes fees for service, health maintenance organization,  
27 preferred provider organization, comprehensive health association plan, accident  
28 and health insurance policies, group health plans as defined in section 607(1) of  
29 the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat.  
30 281; 29 U.S.C. 1167(1)], and other types of coverage under which major medical

- 1 coverage may be provided in a policy, plan, or contract which may legally be sold  
2 or provided in this state.
- 3 8. "Income" means any form of payment, regardless of source, owed to an obligor,  
4 including any earned, unearned, taxable or nontaxable income, workers'  
5 compensation, disability benefits, unemployment compensation benefits, annuity  
6 and retirement benefits, but excluding public assistance benefits administered  
7 under state law.
- 8 9. "Income payor" means any person, partnership, firm, corporation, limited liability  
9 company, association, political subdivision, or department or agency of the state or  
10 federal government owing income to an obligor and includes an obligor if the  
11 obligor is self-employed.
- 12 10. "Obligee" means a person including a state or political subdivision to whom a duty  
13 of support is owed.
- 14 11. "Obligor" means any person owing a duty of support.
- 15 12. "Past-due support" means child support that is not paid by the earlier of:  
16 a. The date a court order or an order of an administrative process established  
17 under state law requires payment to be made; or  
18 b. The last day of the month or other period the payment was intended to cover.
- 19 13. "Payday" means the day upon which the income payor pays or otherwise credits  
20 the obligor.
- 21 ~~14. "Public authority" means the department of human services in execution of its  
22 duties pursuant to the state plan submitted under chapter 50-09 in conformance  
23 with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C.  
24 651 et seq.].~~
- 25 ~~15. "System implementation date" means the date the public authority certifies to the  
26 secretary of state and the legislative council that the statewide automated data  
27 processing system, established under section 50-09-02.1, is operating.~~

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

30 **14-09-09.13. Procedure - Notice to obligor.** If immediate income withholding under  
31 section 14-09-09.24 has not been implemented and an obligor is delinquent, if an obligee's

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

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

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

27 **14-09-09.15. Form - Effect of income withholding order.** The income withholding  
28 order must be issued in the name of the state of North Dakota in the standard format for notice  
29 of the order prescribed by the secretary of the United States department of health and human  
30 services under authority of 42 U.S.C. 666(b)(6)(A)(ii), contain only the information necessary for  
31 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.

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

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

24           **14-09-09.17. Amendment - Termination of income withholding order.** Upon  
25 amendment or termination of an income withholding order, the clerk of court or ~~the public~~  
26 ~~authority~~ child support agency shall send appropriate notice to the income payor. An income  
27 withholding order is to be amended by the clerk or ~~the public authority~~ child support agency  
28 when the total amount of money to be withheld is changed by elimination of arrearages or by  
29 court-ordered change in amount of child support. An income withholding order is to be  
30 terminated when the duty to support ceases and all child support arrearages have been paid.  
31 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, ~~#~~ 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



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

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

28 **14-09-09.25. Requests by obligee for income withholding - Approval - Procedures**  
29 **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

- 1 standing and continuing appropriation for the purpose of making disbursements to  
2 obligees entitled to the child support payments collected.
- 3 6. Notwithstanding section 28-20-36, the state disbursement unit shall disburse  
4 collected child support payments in conformity with title IV-D of the Social Security  
5 Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.]. Any disbursement  
6 made in error is not a gift and must be repaid. The ~~public authority~~ child support  
7 agency may take any action not inconsistent with law to secure repayment of any  
8 disbursement made in error. Interest accrued on an unpaid child support obligation  
9 is child support. To the extent consistent with the requirements of title IV-D, a  
10 payment received with respect to a child support arrearage must first be applied to  
11 accrued interest on the earliest arrearage, and then to the principal of that  
12 arrearage. The ~~public authority~~ child support agency may calculate judgment  
13 interest accrued only on child support obligations that first became arrearages after  
14 July 1, 2002. The ~~public authority~~ child support agency shall enter in its records  
15 judgment interest on child support obligations that first became arrearages on or  
16 before July 1, 2002, only if a court has ordered the interest amount calculated by  
17 some individual or entity other than the ~~public authority~~ child support agency and  
18 approved the calculated amount. For purposes of this subsection, arrearage  
19 means an unpaid child support obligation that was due in a month prior to the  
20 current month.
- 21 7. Unless notice has otherwise been provided, the state disbursement unit shall  
22 provide notice to the obligor, the obligee, and any income payer that payment must  
23 be made to the state disbursement unit.

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

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

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

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

5           9. "Voluntary paternity establishment service entity" means the state department of  
6 health and ~~any~~ the child support agency, as that term is defined in section  
7 14-09-09.10.

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

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

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

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

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

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

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

24          **35-34-01. Definitions.** For purposes of this chapter:

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

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

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

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

29          ~~4.~~ 5. "Obligee" has the meaning provided in section 14-09-09.10.

30          ~~5.~~ 6. "Obligor" has the meaning provided in section 14-09-09.10.

31          ~~6.~~ 7. "Past-due support" has the meaning provided in section 14-09-09.10.

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

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

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

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

6           **35-34-02. Lien for past-due child support.** When a past-due child support obligation  
7 is at least six times the monthly child support obligation and the obligor is not current in a  
8 court-established plan to repay the past-due support, the ~~public authority~~ child support agency  
9 may establish a lien on personal property as provided in this chapter.

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

12          **35-34-03. Vehicle lien.**

13          1. In the case of a vehicle, the ~~public authority~~ child support agency may establish a  
14 lien by filing a notice of lien with the director of the department of transportation.

15               The notice must be in a form prescribed by the director and contain a description of  
16 the vehicle, the name and last-known address of the obligor, and any other  
17 information required by the director. The notice of lien must state that the child  
18 support obligation is past due and that a copy of the notice of lien has been served  
19 on the obligor by first-class mail at the obligor's last-known address.

20          2. Upon filing of the notice of lien in accordance with this section, the director shall  
21 demand in writing the surrender of the certificate of title from the obligor or a  
22 superior lienholder for the purpose of recording the lien on the certificate of title.  
23 Upon receipt of the certificate of title, the director shall record the fact of the lien  
24 and the identity of the lienholder on the certificate of title and deliver the certificate  
25 of title to the vehicle's owner or, if a superior lienholder had possession of the  
26 certificate of title, to that superior lienholder. If the obligor or superior lienholder  
27 fails to surrender the certificate of title within fifteen days after the written demand  
28 by the director, the director shall notify the ~~public authority seeking the lien~~ child  
29 support agency.

30          3. Upon receipt of notice from the director that the obligor or superior lienholder has  
31 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;

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

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

11           **50-03-10. County commissions to make recommendations.** Before August first of  
12 each year, the boards of county commissioners of the counties shall make a collective  
13 recommendation to the department concerning the distribution between counties, of the social  
14 service block grant funds; and the general fund equivalents of social service block grant funds;  
15 ~~and child support incentive funds~~ available to the department for distribution to county social  
16 service boards. The department shall consider the recommendation of the county  
17 commissioners in determining the distribution to the county social service boards, in the  
18 following calendar year, of the social service block grant funds; and general fund equivalents of  
19 social service block grant funds; ~~and child support incentive funds~~ available to the department  
20 for that purpose.

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

23           **50-09-01. Definitions.** In this chapter, unless the context or subject matter otherwise  
24 requires:

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

Fifty-eighth  
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- 1           2. "Assistance" means money payments with respect to, or goods and services  
2           provided for dependent children, including payments for the care of unmarried  
3           mothers or fathers and their infants.
- 4           3. "Child support" has the meaning provided in section 14-09-09.10.
- 5           4. ~~"Child support agency" has the meaning provided in section 14-09-09.10.~~
- 6           ~~5.~~ "County agency" means the county social service board in each of the counties of  
7           the state.
- 8           ~~6.~~ 5. "Dependent child" means any needy child who is described in a state plan for aid  
9           and services to needy families submitted pursuant to title IV-A.
- 10          ~~7.~~ 6. "Financial institution" means:
- 11           a. A depository institution, as defined in section 3(c) of the Federal Deposit  
12           Insurance Act [12 U.S.C. 1813(c)];
- 13           b. An institution-affiliated party, as defined in section 3(u) of the Federal Deposit  
14           Insurance Act [12 U.S.C. 1813(u)];
- 15           c. Any federal credit union or state credit union, as defined in section 101 of the  
16           Federal Credit Union Act [12 U.S.C. 1752], including an institution-affiliated  
17           party of such a credit union, as defined in section 206(r) of the Federal Credit  
18           Union Act [12 U.S.C. 1786(r)]; and
- 19           d. Any benefit association, insurance company, safe deposit company, securities  
20           intermediary, money market mutual fund, or similar entity authorized to do  
21           business in the state.
- 22          ~~8.~~ 7. "Obligor" has the meaning provided in section 14-09-09.10.
- 23          ~~9.~~ 8. "Past due support" has the meaning provided in section 14-09-09.10.
- 24          ~~10.~~ 9. "Secretary" means the secretary of the United States department of health and  
25          human services.
- 26          ~~11.~~ 10. "Securities account" has the meaning provided in section 41-08-41.
- 27          ~~12.~~ 11. "Securities intermediary" has the meaning provided in section 41-08-02, but does  
28          not include a clearing corporation.
- 29          ~~13.~~ 12. "State agency" means the North Dakota department of human services.
- 30          ~~14.~~ 13. "Title IV-A" means title IV-A of the Social Security Act, as adopted by title I of  
31          Pub. L. 104-193 [110 Stat. 2110 et seq.; 42 U.S.C. 601 et seq.].



- 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.~~

1           6- Administer child and family services under the direction and supervision of the  
2           state agency in conformity with title IV-B.

3           7- 6. Administer federal payments for foster care and adoption assistance under the  
4           direction and supervision of the state agency in conformity with title IV-E.

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

7           **50-09-08. Investigations - Power of county agencies, state agency, and**  
8 **employees.**

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

12           4- a. Conduct examinations;

13           2- b. Require the attendance of witnesses and the production of books, records,  
14           and papers; and

15           3- c. Make application to the district court of the county to compel the attendance of  
16           witnesses and the production of books, records, and papers.

17           4- 2. ~~Request~~ The state agency may request from other state agencies, and county,  
18           and local agencies, information deemed necessary to carry out the child support  
19           enforcement program. All officers and employees of state, county, and local  
20           agencies shall cooperate with the state ~~and county~~ agency in locating absent  
21           parents of children to whom an obligation of support is owed or on whose behalf  
22           assistance is being provided and, on request, shall supply the state ~~or county~~  
23           agency with available information relative to the location, income, social security  
24           number, and property holdings of the absent parent, notwithstanding any provision  
25           of law making that information confidential. Any person acting under the authority  
26           of the state agency who pursuant to this subsection obtains information from the  
27           office of the state tax commissioner, the confidentiality of which is protected by law,  
28           may not divulge such information except to the extent necessary for the  
29           administration of the child support enforcement program or when otherwise  
30           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

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

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

6 **50-09-08.3. Administrative enforcement in interstate cases.** In acting as the official  
7 agency of the state in administering the child support program under title IV-D, the state  
8 agency, directly or through agents ~~and county agencies:~~

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

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

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

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

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

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

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

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

29 **50-09-15.1. Child support incentives account.** The ~~child support incentives account~~  
30 ~~is established as a special account in the state treasury~~ balance of the child support initiatives  
31 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. Conduct examinations;

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

22          ~~3.~~ 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

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

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

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

12 **52-06-06.1. Weekly benefit reduction for child support.**

13 1. An individual filing a new claim for unemployment compensation shall, at the time  
14 of filing such claim, disclose whether or not the individual owes child support  
15 obligations as defined under subsection 7. If any such individual discloses that the  
16 individual owes child support obligations, and is determined to be eligible for  
17 unemployment compensation, the bureau shall notify the state ~~or local~~ child  
18 support ~~enforcement~~ agency enforcing such obligation that the individual has been  
19 determined to be eligible for unemployment compensation.

20 2. The bureau shall deduct and withhold from any unemployment compensation  
21 payable to an individual that owes child support obligations as defined under  
22 subsection 7:

23 a. The amount specified by the individual to the bureau to be deducted and  
24 withheld under this subsection, if neither subdivision b nor c are applicable;

25 b. The amount, if any, determined pursuant to an agreement submitted to the  
26 bureau under section 454(20)(B)(i) of the Social Security Act [42 U.S.C.  
27 654(20)(B)(i)] by the state ~~or local~~ child support ~~enforcement~~ agency, unless  
28 subdivision c is applicable; or

29 c. Any amount otherwise required to be so deducted and withheld from such  
30 unemployment compensation pursuant to legal process, as that term is

- 1                    defined in section 459(i)(5) of the Social Security Act [42 U.S.C. 659(i)(5)],  
2                    properly served upon the bureau.
- 3            3. Any amount deducted and withheld under subsection 2 must be paid by the bureau  
4            to the ~~appropriate state or local~~ child support ~~enforcement~~ agency.
- 5            4. Any amount deducted and withheld under subsection 2 must ~~for all purposes~~ be  
6            treated for all purposes as if it were paid to the individual as unemployment  
7            compensation and paid by such individual to the state ~~or local~~ child support  
8            ~~enforcement~~ agency in satisfaction of the individual's child support obligations.
- 9            5. For purposes of subsections 1 through 4, the term "unemployment compensation"  
10            means any compensation payable under the North Dakota Unemployment  
11            Compensation Law, including amounts payable by the bureau pursuant to an  
12            agreement under any federal law providing for compensation, assistance, or  
13            allowances with respect to unemployment.
- 14            6. This section applies only if appropriate arrangements have been made for  
15            reimbursement by the state ~~or local~~ child support ~~enforcement~~ agency for the  
16            administrative costs incurred by the bureau under this section which are  
17            attributable to child support obligations being enforced by the state ~~or local~~ child  
18            support ~~enforcement~~ agency.
- 19            7. The term "child support obligations" is defined for purposes of these provisions as  
20            including only obligations which are being enforced pursuant to a plan described in  
21            section 454 of the Social Security Act [42 U.S.C. 654] which has been approved by  
22            the secretary of health and human services under part D of title IV of the Social  
23            Security Act.
- 24            8. The term "state ~~or local~~ child support ~~enforcement~~ agency", as used in these  
25            provisions, means ~~any~~ the agency of this state ~~or a political subdivision thereof~~  
26            operating pursuant to a plan described in subsection 7.

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

- 29            3. A claim made by ~~any~~ the child support unit of the department of human services  
30            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.