

DOMESTIC RELATIONS AND PERSONS

CHAPTER 142

HOUSE BILL NO. 1445

(Representatives Damschen, Heller, Hunskor, L. Meier)
(Senators Christmann, Klein)

AN ACT to amend and reenact section 14-02.1-02 of the North Dakota Century Code, relating to the requirements of informed consent to abortion.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02. Definitions. As used in this chapter:

1. "Abortion" means the termination of human pregnancy with an intention other than to produce a live birth or to remove a dead embryo or fetus.
2. "Abortion facility" means a clinic, ambulatory surgical center, physician's office, or any other place or facility in which abortions are performed, other than a hospital.
3. "Hospital" means an institution licensed by the state department of health under chapter 23-16 and any hospital operated by the United States or this state.
4. "Human being" means an individual living member of the species of homo sapiens, including the unborn human being during the entire embryonic and fetal ages from fertilization to full gestation.
5. "Infant born alive" or "live born child" means a born child which exhibits either heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles or pulsation of the umbilical cord if still attached to the child.
- ~~5-~~ 6. "Informed consent" means voluntary consent to abortion by the woman upon whom the abortion is to be performed provided that:
 - a. The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by the physician's agent, at least twenty-four hours before the abortion:
 - (1) The name of the physician who will perform the abortion;
 - (2) The abortion will terminate the life of a whole, separate, unique, living human being;

- ~~9.~~ 10. "Viable" means the ability of a fetus to live outside the mother's womb, albeit with artificial aid.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 143**SENATE BILL NO. 2265**
(Senators Wanzek, Erbele, Mathern)
(Representatives J. Kelsh, S. Kelsh, L. Meier)

AN ACT to create and enact a new section to chapter 14-02.1 of the North Dakota Century Code, relating to required notice to be posted at abortion facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-02.1 of the North Dakota Century Code is created and enacted as follows:

Required notice at abortion facility.

1. Any abortion facility that performs abortions shall display signs that contain exclusively the following words: "NOTICE: No one can force you to have an abortion. It is against the law for a spouse, a boyfriend, a parent, a friend, a medical care provider, or any other person to in any way force you to have an abortion."
2. The signs must be located so that the signs can be read easily and in areas that ensure maximum visibility to women at the time a woman gives consent to an abortion.
3. The display of signs pursuant to this section does not discharge any other legal duty of an abortion facility or physician.
4. The state department of health shall make the signs required by this section available for download in a printable format on its internet website.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 144

HOUSE BILL NO. 1371

(Representatives Grande, Dahl, Kerzman)
(Senators Erbele, Krauter, Wanzek)

AN ACT to amend and reenact sections 14-02.1-04 and 14-02.1-07 of the North Dakota Century Code, relating to limitations on the performance of abortion and abortion reporting requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-04. Limitations on the performance of abortions - Penalty.

1. No abortion may be done by any person other than a licensed physician using medical standards applicable to all other surgical procedures.
2. After the first twelve weeks of pregnancy but prior to the time at which the fetus may reasonably be expected to have reached viability, no abortion may be performed in any facility other than a licensed hospital.
3. After the point in pregnancy when the fetus may reasonably be expected to have reached viability, no abortion may be performed except in a hospital, and then only if in the medical judgment of the physician the abortion is necessary to preserve the life of the woman or if in the physician's medical judgment the continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health.

An abortion under this subsection may only be performed if the above-mentioned medical judgment of the physician who is to perform the abortion is first certified by the physician in writing, setting forth in detail the facts upon which the physician relies in making this judgment and if this judgment has been concurred in by two other licensed physicians who have examined the patient. The foregoing certification and concurrence is not required in the case of an emergency when the abortion is necessary to preserve the life of the patient.

4. An abortion facility may not perform an abortion on a woman without first offering the woman an opportunity to receive and view at the abortion facility or another facility an active ultrasound of her fetus. The offer and opportunity to receive and view an ultrasound must occur at least twenty-four hours before the abortion is scheduled to be performed. The active ultrasound image must be of a quality consistent with standard medical practice in the community, contain the dimensions of the fetus, and accurately portray the presence of external members and internal organs, including the heartbeat, if present or viewable, of the fetus. The auscultation of the fetal heart tone must be of a quality consistent with standard medical practice in the community. The abortion facility shall document the woman's response to the offer,

including the date and time of the offer and the woman's signature attesting to her informed decision.

5. Any licensed physician who performs an abortion without complying with the provisions of this section is guilty of a class A misdemeanor.
- ~~6.~~ 6. It is a class B felony for any person, other than a physician licensed under chapter 43-17, to perform an abortion in this state.

SECTION 2. AMENDMENT. Section 14-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-07. Records required - Reporting of practice of abortion.

1. Records:

- a. All abortion facilities and hospitals in which abortions are performed shall keep records, including admission and discharge notes, histories, results of tests and examinations, nurses' worksheets, social service records, and progress notes, and shall further keep a copy of all written certifications provided for in this chapter as well as a copy of the constructive notice forms, consent forms, court orders, abortion reports, and complication reports. All abortion facilities shall keep records of the number of women who availed themselves of the opportunity to receive and view an ultrasound image of their fetuses pursuant to section 14-02.1-04, and the number who did not; and of each of those numbers, the number who, to the best of the reporting abortion facility's information and belief, went on to obtain the abortion. Records must be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven years.
- b. The medical records of abortion facilities and hospitals in which abortions are performed and all information contained therein must remain confidential and may be used by the state department of health only for gathering statistical data and ensuring compliance with the provisions of this chapter.

2. Reporting:

- a. An individual abortion report for each abortion performed upon a woman must be completed by her attending physician. The report must be confidential and may not contain the name of the woman. This reporting must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.
- b. All abortion reports must be signed by the attending physician and submitted to the state department of health within thirty days from the date of the abortion. All complication reports must be signed by the physician providing the post-abortion care and submitted to the state department of health within thirty days from the date of the post-abortion care.
- c. A copy of the abortion report must be made a part of the medical record of the patient at the facility or hospital in which the abortion

was performed. In cases when post-abortion complications are discovered, diagnosed, or treated by physicians not associated with the facility or hospital where the abortion was performed, the state department of health shall forward a copy of the report to that facility or hospital to be made a part of the patient's permanent record.

- d. The state department of health is responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom and shall annually publish a statistical report based on data from abortions performed in the previous calendar year.
- e. The state department of health shall report to the attorney general any apparent violation of this chapter.

Approved April 21, 2009
Filed April 22, 2009

CHAPTER 145**SENATE BILL NO. 2143**

(Political Subdivisions Committee)

(At the request of the Office of Management and Budget)

AN ACT to amend and reenact section 14-02.4-19 of the North Dakota Century Code, relating to the administrative adjudication of discriminatory practices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-19 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations.

1. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed or in the district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing.
2. Any person claiming to be aggrieved by any discriminatory practice other than public services or public accommodations in violation of this chapter may file a complaint of discriminatory practice with the department or, except as limited by this section, may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing.
3. # Except as otherwise limited by this section, if a complaint of a discriminatory practice is first filed with the department, the period of limitation for bringing an action in the district court is ninety days from the date the department dismisses the complaint or issues a written probable cause determination.
4. If a person elects to bring an action in the district court under this chapter, any ~~pending~~ administrative action pending before the department based upon the same discriminatory acts must be dismissed immediately.
5. A person whose collective bargaining agreement, employment contract, or public employee rights provides a process through which recourse for discriminatory acts is available must exercise that process to completion before commencing an action under this section, and if that process provides for judicial review by statutory appeal or through special proceedings, then that process must be followed to completion. The

period of limitation for bringing an action in the district court if there is no statutory appeal is ninety days from the date the available process is completed or if a complaint is filed with the department, ninety days from the date the department dismisses a complaint or issues a written probable cause determination, whichever is greater. In those cases when there is no statutory appeal, a request for an administrative hearing under section 14-02.4-23 must be made within twenty days from the date the department dismisses a complaint or issues a probable cause determination, but no administrative hearing may be held until any available internal process is completed. A person found to have been subjected to a discriminatory act through an administrative process may apply to the district court for an award of reasonable attorney's fees and costs. Nothing in this subsection limits the ability of the department to receive and investigate complaints of discrimination and engage in informal conciliation.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 146**HOUSE BILL NO. 1252**

(Representatives Mueller, Dahl, Delmore, Hawken)
(Senators Heckaman, Nelson)

AN ACT to create and enact section 14-03-20.2 of the North Dakota Century Code, relating to middle name options.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 14-03-20.2 of the North Dakota Century Code is created and enacted as follows:

14-03-20.2. Middle name options.

1. One party or both parties to a marriage may elect to change the middle name by which that individual wishes to be known after the solemnization of the marriage by entering the new middle name in the space provided on the marriage license application. If an individual elects to change that individual's middle name, the middle name entry on the marriage license application or marriage license must consist of the premarriage surname or former surname of that individual.
2. Compliance with the middle name provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1.

Approved April 28, 2009
Filed May 1, 2009

CHAPTER 147**HOUSE BILL NO. 1291**

(Representatives Delmore, Dahl, DeKrey, S. Meyer)
(Senators Lyson, Schneider)

AN ACT to create and enact a new section to chapter 14-07.1 of the North Dakota Century Code, relating to the use of electronic monitoring as a condition of release for certain individuals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-07.1 of the North Dakota Century Code is created and enacted as follows:

Release conditions. If an individual charged with or arrested for a crime involving domestic violence, including a violation of a domestic violence protection order under section 14-07.1-03 or an order prohibiting contact under section 14-07.1-13, is released from custody, a district or municipal court may require that electronic home detention or global positioning system monitoring be used for the individual as a condition of release.

Approved April 8, 2009
Filed April 9, 2009

CHAPTER 148**HOUSE BILL NO. 1329**
(Representatives Weisz, Bellew, DeKrey)
(Senator Klein)

AN ACT to create and enact a new subsection to section 14-09-09.3 of the North Dakota Century Code, relating to the duties and liabilities of an income payer; to amend and reenact section 14-09-09.7 of the North Dakota Century Code, relating to the child support guidelines; and to provide an agency directive.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁸⁰ **SECTION 1.** A new subsection to section 14-09-09.3 of the North Dakota Century Code is created and enacted as follows:

If an income payer makes an error in the remittal information the income payer provides to the state disbursement unit, the income payer has not complied with this section and is responsible for the error, but has a cause of action for reimbursement against any person that receives funds from the disbursement unit as a result of the error and refuses to return the funds upon request.

⁸¹ **SECTION 2. AMENDMENT.** Section 14-09-09.7 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.7. Child support guidelines.

1. The department of human services shall establish child support guidelines to assist courts in determining the amount a parent should be expected to contribute toward the support of the child under this section. The guidelines must:
 - a. Include consideration of gross income. For purposes of the guidelines, gross income does not include an employee benefit over which the employee does not have significant influence or control over the nature or amount unless:
 - (1) That benefit may be liquidated; and
 - (2) Liquidation of that benefit does not result in the employee incurring an income tax penalty.
 - b. Authorize an expense deduction for determining net income.

⁸⁰ Section 14-09-09.3 was also amended by section 2 of House Bill No. 1175, chapter 419.

⁸¹ Section 14-09-09.7 was also amended by section 97 of House Bill No. 1436, chapter 482.

- c. Designate other available resources to be considered.
 - d. Specify the circumstances that should be considered in reducing support contributions on the basis of hardship.
 - e. Include consideration of extended periods of time a minor child spends with the child's obligor parent.
 - f. ~~Authorize a rebuttal of the presumption provided in subsection 3 in cases of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control.~~
 - g. Authorize a rebuttal of the presumption provided in subsection 3 4 based on the proportionate net income of the obligor and the obligee when the net income of the obligee is at least three times higher than the net income of the obligor.
- ~~h.~~ g. Include consideration of an obligated party's responsibility for health insurance coverage or other medical support under section 14-09-08.10.
2. The guidelines may not take into consideration cases of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control.
3. The department shall accept and compile pertinent and reliable information from any available source in order to establish the child support guidelines. Copies of the guidelines must be made available to courts, state's attorneys, and upon request, to any other state or county officer or agency engaged in the administration or enforcement of this chapter.
- ~~3.~~ 4. There is a rebuttable presumption that the amount of child support that would result from the application of the child support guidelines is the correct amount of child support. The presumption may be rebutted if a preponderance of the evidence in a contested matter establishes, applying criteria established by the child support agency which take into consideration the best interests of the child, that the child support amount established under the guidelines is not the correct amount of child support. A written finding or a specific finding on the record must be made if the court determines that the presumption has been rebutted. The finding must:
- a. State the child support amount determined through application of the guidelines;
 - b. Identify the criteria that rebut the presumption of correctness of that amount; and
 - c. State the child support amount determined after application of the criteria that rebut the presumption.
4. 5. The department shall institute a new rulemaking proceeding under section 28-32-02 relating to the child support guidelines to ensure that the application of the guidelines results in the determination of appropriate child support award amounts. The initial rulemaking

proceeding must be commenced with a notice of proposed adoption, amendment, or repeal by August 1, 1998, and subsequent rulemaking proceedings must be so commenced at least once every four years thereafter. Before commencing any rulemaking proceeding under this section, the department shall convene a drafting advisory committee that includes two members of the legislative assembly appointed by the chairman of the legislative council.

- ~~5-~~ 6. The guidelines established under this section may include a separate amount of child support for the child's health insurance coverage, reimbursement for public health coverage provided under chapter 50-29, and other medical support.

SECTION 3. ADMINISTRATIVE RULEMAKING - ADDITIONAL REBUTTAL CRITERIA. As part of the first rulemaking commenced under section 14-09-09.7 after the effective date of this Act, the Department of Human Services shall adopt new criteria for rebutting the presumptively correct amount of support determined under the child support guidelines based on the increased ability of an obligor, whose income is decreased based on depreciation, to provide child support.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 149**SENATE BILL NO. 2042**

(Legislative Council)
(Judicial Process Committee)

AN ACT to create and enact six new sections to chapter 14-09 and chapter 14-09.2 of the North Dakota Century Code, relating to parental rights and responsibilities and to parenting coordinators; to amend and reenact sections 14-05-22, 14-05-23, 14-09-05.1, 14-09-06.2, 14-09-06.3, 14-09-06.4, 14-09-06.6, and 14-09-07 of the North Dakota Century Code, relating to parental rights and responsibilities; to repeal sections 14-09-04, 14-09-05, 14-09-06, 14-09-06.1, and 14-09-28 of the North Dakota Century Code, relating to child custody and parental custody and visitation rights and duties; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-05-22 of the North Dakota Century Code is amended and reenacted as follows:

14-05-22. Custody of children - Visitation Parental rights and responsibilities - Costs.

1. In an action for divorce, the court, before or after judgment, may give ~~such~~ direction for ~~the custody, care, and education~~ parenting rights and responsibilities of the children of the marriage ~~as may seem necessary or proper,~~ and may vacate or modify the same at any time. Any award or change of ~~custody~~ primary parental responsibilities must be made in accordance with the provisions of chapter 14-09.
2. After making an award of ~~custody~~ primary residential responsibility, the court ~~shall~~, upon request of the ~~noncustodial~~ other parent, shall grant such rights of ~~visitation~~ parenting time as will enable the child ~~and the noncustodial parent~~ to maintain a parent-child relationship that will be beneficial to the child, unless the court finds, after a hearing, that ~~visitation~~ such rights of parenting time are likely to endanger the child's physical or emotional health.
3. ~~If the court finds that a parent has perpetrated domestic violence and that parent does not have custody, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, the court shall allow only supervised child visitation with that parent unless there is a showing by clear and convincing evidence that unsupervised visitation would not endanger the child's physical or emotional health.~~
4. ~~If any court finds that a parent has sexually abused the parent's child, the court shall prohibit all visitation and contact between the abusive parent and the child until the court finds that the abusive parent has successfully completed a treatment program designed for such sexual abusers, and that supervised visitation is in the child's best interest.~~

Contact between the abusive parent and the child may be allowed only in a therapeutic setting, facilitated by a therapist as part of a sexual abuse treatment program, and only when the therapist for the abusive parent and the therapist for the abused child agree that it serves a therapeutic purpose and is in the best interests of the child.

5. In any custody or visitation proceeding in which a parent is found to have perpetrated domestic violence, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, all court costs, attorney's fees, evaluation fees, and expert witness fees must be paid by the perpetrator of the domestic violence unless these costs would place an undue financial hardship on that parent.

SECTION 2. AMENDMENT. Section 14-05-23 of the North Dakota Century Code is amended and reenacted as follows:

14-05-23. Temporary support, attorney's fees, and custody parental rights and responsibilities. During any time in which an action for separation or divorce is pending, the court, upon application of a party, may issue an order requiring a party to pay such support as may be necessary for the support of a party and minor children of the parties and for the payment of attorney's fees. The court in the order may ~~award custody of minor children to a party~~ make an order concerning parental rights and responsibilities concerning the children of the parties. The order may be issued and served in accordance with the North Dakota Rules of Court. The court may include in the order a provision for domestic violence protection provided the party has submitted a verified application for the order which is sufficient to meet the criteria defined in subsection 2 of section 14-07.1-01. A violation of the protection provision of the order is subject to the penalties established in section 14-07.1-06 and the arrest procedures authorized in section 14-07.1-11.

SECTION 3. AMENDMENT. Section 14-09-05.1 of the North Dakota Century Code is amended and reenacted as follows:

14-09-05.1. Grandparental rights of visitation to unmarried ~~minors~~ minor child - Mediation or arbitration.

1. The grandparents and great-grandparents of an unmarried minor child may be granted reasonable visitation rights to the ~~minor~~ child by the district court upon a finding that visitation would be in the best interests of the ~~minor~~ child and would not interfere with the parent-child relationship.
2. The court shall consider the amount of personal contact that has occurred between the grandparents or great-grandparents and the ~~minor~~ child and the ~~minor's~~ child's parents.
3. This section does not apply to agency adoptions or when the ~~minor~~ child has been adopted by a person other than a stepparent or grandparent. Any visitation rights granted under this section before the adoption of the ~~minor~~ child may be terminated upon the adoption if termination of the rights is in the best interest of the ~~minor~~ child.
4. An application for visitation rights under this section may be considered by the district court in conjunction with a divorce proceeding involving

the parent of the minor child. If any district court of this state retains jurisdiction over the ~~custodial~~ residential placement of the minor child or children by virtue of any prior proceedings, the rights conferred by this section may be enforced by the grandparents or the great-grandparents through motion under the prior proceeding. If no district court otherwise has jurisdiction, a proceeding to enforce grandparental rights may be brought against the ~~custodial~~ parent having primary residential responsibility as a civil action and venued in the county of residence of the minor child.

5. The district court may require mediation of the matter under chapter 14-09.1. If mediation fails and if the mediator agrees, the court may order the dispute arbitrated by the person who attempted mediation. Joinder of grandparents or of great-grandparents awarded visitation rights under this section must occur in any proceeding to terminate parental rights.

SECTION 4. Five new sections to chapter 14-09 of the North Dakota Century Code are created and enacted as follows:

Definitions. As used in this chapter, unless the context otherwise requires:

1. "Decisionmaking responsibility" means the responsibility to make decisions concerning the child. The term may refer to decisions on all issues or on specified issues, but not child support issues.
2. "Parental rights and responsibilities" means all rights and responsibilities a parent has concerning the parent's child.
3. "Parenting plan" means a written plan describing each parent's rights and responsibilities.
4. "Parenting schedule" means the schedule of when the child is in the care of each parent.
5. "Parenting time" means the time when the child is to be in the care of a parent.
6. "Primary residential responsibility" means a parent with more than fifty percent of the residential responsibility.
7. "Residential responsibility" means a parent's responsibility to provide a home for the child.

Parental rights and responsibilities - Best interests and welfare of child.

1. A court issuing an order that deals with parenting rights and responsibilities of a child entered under this chapter shall award the parental rights and responsibilities concerning the child to a person, agency, organization, or institution as will, in the opinion of the court, promote the best interests and welfare of the child. Between the mother and father, whether married or unmarried, there is no presumption as to whom will better promote the best interests and welfare of the child.
2. If the court finds that a parent has perpetrated domestic violence and that parent does not have residential responsibility, and there exists one

incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, the court shall allow only supervised parenting time with that parent unless there is a showing by clear and convincing evidence that unsupervised parenting time would not endanger the child's physical or emotional health.

3. If any court finds that a parent has sexually abused the parent's child, the court shall prohibit contact between the abusive parent and the child until the court finds that the abusive parent has successfully completed a treatment program designed for such sexual abusers and that supervised parenting time is in the child's best interest. Contact between the abusive parent and the child may be allowed only in a therapeutic setting, facilitated by a therapist as part of a sexual abuse treatment program, and only when the therapist for the abusive parent and the therapist for the abused child agree that contact serves a therapeutic purpose and is in the best interests of the child.
4. In any proceeding dealing with parental rights and responsibilities in which a parent is found to have perpetrated domestic violence, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, all court costs, attorney's fees, evaluation fees, and expert witness fees must be paid by the perpetrator of the domestic violence unless those costs would place an undue financial hardship on that parent.

Parenting plans - Contents.

1. In any proceeding to establish or modify a judgment providing for parenting time with a child, the parents shall develop and file with the court a parenting plan to be included in the court's decree. If the parents are unable to agree on a parenting plan, the court shall issue a parenting plan considering the best interests of the child.
2. A parenting plan must include, at a minimum, provisions regarding the following or an explanation as to why a provision is not included:
 - a. Decisionmaking responsibility relative to:
 - (1) Routine or day-to-day decisions; and
 - (2) Major decisions such as education, health care, and spiritual development;
 - b. Information sharing and access, including telephone and electronic access;
 - c. Legal residence of a child for school attendance;
 - d. Residential responsibility, parenting time, and parenting schedule, including;

- (1) Holidays and days off from school, birthday, and vacation planning;
- (2) Weekends and weekdays; and
- (3) Summers;
- e. Transportation and exchange of the child, considering the safety of the parties;
- f. Procedure for review and adjustment of the plan; and
- g. Methods for resolving disputes.

Decisionmaking responsibility. Except as provided in subsection 3, in the making of any order relative to decisionmaking responsibility:

1. If the parents have reached an agreement as to decisionmaking responsibility, the court shall accept the agreement unless the court makes written findings that the agreement is not in the best interests of the child.
2. If the parents cannot agree on an allocation of decisionmaking responsibility, the court shall enter an order allocating decisionmaking responsibility in the best interests of the child.
3. An allocation of decisionmaking responsibility is not in the best interests of the child unless the order includes a method of resolving disputes when parents do not agree on an issue.
4. If the court finds that domestic violence as defined in section 14-07.1-01 has occurred, the court shall consider such domestic violence in determining whether joint decisionmaking responsibility is in the best interests of the child. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the child, the parent, or both. If joint decisionmaking responsibility is granted, even though there is evidence of domestic violence, the court shall provide written findings to support the order.

Parental rights and responsibilities.

1. Each parent of a child has the following rights and responsibilities:
 - a. Right to access and obtain copies of the child's educational, medical, dental, religious, insurance, and other records or information.
 - b. Right to attend educational conferences concerning the child. This right does not require any school to hold a separate conference with each parent.
 - c. Right to reasonable access to the child by written, telephonic, and electronic means.
 - d. Duty to inform the other parent as soon as reasonably possible of a serious accident or serious illness for which the child receives

health care treatment. The parent shall provide to the other parent a description of the serious accident or serious illness, the time of the serious accident or serious illness, and the name and location of the treating health care provider.

- e. Duty to immediately inform the other parent of residential telephone numbers and address, and any changes to the same.
- f. Duty to keep the other parent informed of the name and address of the school the child attends.

- 2. The court shall include in an order establishing or modifying parental rights and responsibilities the rights and duties listed in this section; however, the court may restrict or exclude any right or duty listed in this section if the order states the reason in support of the restriction or exclusion. The court shall consider any domestic violence protection orders relating to the parties when determining whether to restrict or exclude any right or duty listed in this section.

SECTION 5. AMENDMENT. Section 14-09-06.2 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.2. Best interests and welfare of child - Court consideration - Factors.

- 1. For the purpose of ~~custody~~ parental rights and responsibilities, the best interests and welfare of the child is determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:
 - a. The love, affection, and other emotional ties existing between the parents and child and the ability of each parent to provide the child with nurture, love, affection, and guidance.
 - b. The ~~capacity and disposition of the parents to give the child love, affection, and guidance and to continue the education of the child~~ ability of each parent to assure that the child receives adequate food, clothing, shelter, medical care, and a safe environment.
 - c. The ~~disposition of the parents to provide the child with food, clothing, medical care, or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs~~ child's developmental needs and the ability of each parent to meet those needs, both in the present and in the future.
 - d. The ~~sufficiency and stability of each parent's home environment, the impact of extended family, the~~ length of time the child has lived in a ~~stable satisfactory environment~~ each parent's home, and the desirability of maintaining continuity in the child's home and community.
 - e. The ~~permanence, as a family unit, of the existing or proposed custodial home~~ willingness and ability of each parent to facilitate

- and encourage a close and continuing relationship between the other parent and the child.
- f. The moral fitness of the parents, as that fitness impacts the child.
 - g. The mental and physical health of the parents, as that health impacts the child.
 - h. The home, school, and community record of the child and the potential effect of any change.
 - i. The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference. If the court finds by clear and convincing evidence that a child is of sufficient maturity to make a sound judgment, the court may give substantial weight to the preference of the mature child. The court also shall give due consideration to other factors that may have affected the child's preference, including whether the child's preference was based on undesirable or improper influences.
 - j. Evidence of domestic violence. In awarding custody or granting rights of visitation determining parental rights and responsibilities, the court shall consider evidence of domestic violence. If the court finds credible evidence that domestic violence has occurred, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, this combination creates a rebuttable presumption that a parent who has perpetrated domestic violence may not be awarded sole or joint custody of a residential responsibility for the child. This presumption may be overcome only by clear and convincing evidence that the best interests of the child require that parent's participation as a custodial parent have residential responsibility. The court shall cite specific findings of fact to show that the custody or visitation arrangement residential responsibility best protects the child and the parent or other family or household member who is the victim of domestic violence. If necessary to protect the welfare of the child, custody residential responsibility for a child may be awarded to a suitable third person, provided that the person would not allow access to a violent parent except as ordered by the court. If the court awards custody residential responsibility to a third person, the court shall give priority to the child's nearest suitable adult relative. The fact that the abused parent suffers from the effects of the abuse may not be grounds for denying that parent custody residential responsibility. As used in this subdivision, "domestic violence" means domestic violence as defined in section 14-07.1-01. A court may consider, but is not bound by, a finding of domestic violence in another proceeding under chapter 14-07.1.
 - k. The interaction and interrelationship, or the potential for interaction and interrelationship, of the child with any person who resides in, is present, or frequents the household of a parent and who may significantly affect the child's best interests. The court shall consider that person's history of inflicting, or tendency to inflict,

involving parental rights and responsibilities - Immunity. In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor ~~children~~ child, and in any action when the ~~custody or visitation of children~~ parenting rights and responsibilities concerning the child is contested, either party to the action may petition the court for the appointment of a guardian ad litem to represent the ~~children~~ child concerning ~~custody, support, and visitation~~ parenting rights and responsibilities. The court, ~~in its discretion,~~ may appoint a guardian ad litem or ~~child custody~~ investigator on its own motion. If appointed, a guardian ad litem shall serve as an advocate of the ~~children's~~ child's best interests. If appointed, the ~~child custody~~ investigator shall provide those services as prescribed by the supreme court. The court may direct either or both parties to pay the guardian ad litem or ~~child custody~~ investigator fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the county ~~of venue where the child resided at the time the action was commenced.~~ The court may direct either or both parties to reimburse the county, in whole or in part, for such payment. Any guardian ad litem or ~~child custody~~ investigator appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the guardian ad litem or ~~child custody~~ investigator is a disputable presumption.

SECTION 8. AMENDMENT. Section 14-09-06.6 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.6. Limitations on postjudgment ~~custody~~ modifications of primary residential responsibility.

1. Unless agreed to in writing by the parties, ~~or if included in the parenting plan,~~ no motion for an order to modify a ~~custody order~~ primary residential responsibility may be made earlier than two years after the date of entry of an order establishing ~~custody~~ primary residential responsibility, except in accordance with subsection 3.
2. Unless agreed to in writing by the parties, ~~or if included in the parenting plan,~~ if a motion for modification has been disposed of upon its merits, no subsequent motion may be filed within two years of disposition of the prior motion, except in accordance with subsection ~~3~~ 5.
3. The time limitation in subsections 1 and 2 does not apply if the court finds:
 - a. The persistent and willful denial or interference with ~~visitation~~ parenting time;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The primary ~~physical care of~~ residential responsibility for the child has changed to the other parent for longer than six months.
4. A party seeking modification of a ~~custody~~ an order concerning primary residential responsibility shall serve and file moving papers and supporting affidavits and shall give notice to the other party to the proceeding who may serve and file a response and opposing affidavits. The court shall consider the motion on briefs and without oral argument or evidentiary hearing and shall deny the motion unless the court finds

the moving party has established a prima facie case justifying a modification. ~~If a prima facie case is established, the~~ The court shall set a date for an evidentiary hearing only if a prima facie case is established.

5. The court may not modify ~~a prior custody order~~ the primary residential responsibility within the two-year period following the date of entry of an order establishing ~~custody~~ primary residential responsibility unless the court finds the modification is necessary to serve the best interest of the child and:
 - a. The persistent and willful denial or interference with ~~visitation~~ parenting time;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The ~~primary physical care of residential responsibility~~ for the child has changed to the other parent for longer than six months.
6. The court may modify ~~a prior custody order~~ the primary residential responsibility after the two-year period following the date of entry of an order establishing ~~custody~~ primary residential responsibility if the court finds:
 - a. On the basis of facts that have arisen since the prior order or which were unknown to the court at the time of the prior order, a material change has occurred in the circumstances of the child or the parties; and
 - b. The modification is necessary to serve the best interest of the child.
7. The court may modify a prior ~~custody~~ order concerning primary residential responsibility at any time if the court finds a stipulated agreement by the parties to modify the ~~custody~~ order is in the best interest of the child.
8. Upon a motion to modify ~~custody~~ primary residential responsibility under this section, the burden of proof is on the moving party.
9. If a motion for change of ~~custody~~ primary parental responsibility is filed during the time a parent is in active duty service, the court may not enter an order modifying or amending a previous judgment or order, or issue a new order, which changes the child's placement that existed on the date the parent was called to active duty service, except the court may enter a temporary ~~custody~~ order that concerning residential responsibility which is in the best interest of the child. The temporary ~~custody~~ order must explicitly provide that ~~custody~~ residential responsibility must be restored to the service member upon the service member's release from active duty service, unless the court finds by clear and convincing evidence that restoration of ~~custody~~ residential responsibility would not be in the best interest of the child. If an original ~~custody~~ decision concerning primary residential responsibility is pending and the service member is alerted for active duty service, or is absent for active duty service, the court may not issue a permanent ~~custody~~ order until the return of the service member from active duty.

The court may issue a temporary ~~custody~~ order concerning primary residential responsibility in the best interest of the child for the time period of the active duty service. This section does not prevent a service member from consenting to a modification of ~~custody~~ that continues past discharge or release from active duty service or to agreeing to a permanent ~~custody~~ order before release from active duty service. For purposes of this section, "service member" means a member of the national guard or a reserve unit of the United States armed forces and "active duty service" means an order to active duty under United States Code title 10.

SECTION 9. AMENDMENT. Section 14-09-07 of the North Dakota Century Code is amended and reenacted as follows:

14-09-07. Residence of child.

1. A parent ~~entitled to the custody of~~ with primary residential responsibility for a child may not change the primary residence of the child to another state except upon order of the court or with the consent of the ~~noncustodial~~ other parent, if the ~~noncustodial~~ other parent has been given ~~visitation rights~~ parenting time by the decree.
2. A parent with equal residential responsibility for a child may not change the residence of the child to another state except with consent of the other parent or order of the court allowing the move and awarding that parent primary residential responsibility.
3. A court order is not required if the ~~noncustodial~~ other parent:
 - a. Has not exercised ~~visitation rights~~ parenting time for a period of one year; or
 - b. Has moved to another state and is more than fifty miles [80.47 kilometers] from the residence of the ~~custodial~~ parent with primary residential responsibility.

SECTION 10. A new section to chapter 14-09 of the North Dakota Century Code is created and enacted as follows:

References to child custody and custodial parent. Any law that refers to the "custody" of a child means the allocation of parental rights and responsibilities as provided in this chapter. Any law that refers to a "custodial parent" or "primary residential responsibility" means a parent with more than fifty percent of the residential responsibility and any reference to a noncustodial parent means a parent with less than fifty percent of the residential responsibility.

SECTION 11. Chapter 14-09.2 of the North Dakota Century Code is created and enacted as follows:

14-09.2-01. Parenting coordinator - Definition. A parenting coordinator is a neutral individual authorized to use any dispute resolution process to resolve parenting time disputes. The purpose of a parenting coordinator is to resolve parenting time disputes by interpreting, clarifying, and addressing circumstances not specifically addressed by an existing court order. A parenting coordinator:

1. May assess for the parties whether there has been a violation of an existing court order and, if so, recommend further court proceedings.
2. May be appointed to resolve a one-time parenting time dispute or to provide ongoing parenting time dispute resolution services. Parenting time dispute also means a visitation dispute under existing orders.
3. Shall attempt to resolve a parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, shall make a decision resolving the dispute.

14-09.2-02. Appointment of parenting coordinator. In any action for divorce, legal separation, paternity, or guardianship in which children are involved, the court, upon its own motion or by motion or agreement of the parties, may appoint a parenting coordinator to assist the parties in resolving issues or disputes related to parenting time. A party, at any time before the appointment of a parenting coordinator, may file a written objection to the appointment on the basis of domestic violence having been committed by another party against the objecting party or a child who is a subject of the action. After the objection is filed, a parenting coordinator may not be appointed unless, on the request of a party, a hearing is held and the court finds that a preponderance of the evidence does not support the objection. If a parenting coordinator is appointed, the court shall order appropriate measures be taken to ensure the physical and emotional safety of all parties and children.

14-09.2-03. Qualifications. The supreme court shall establish qualifications and maintain and make available to the public a roster of individuals eligible to serve as a parenting coordinator. The roster must include each individual's name, address, and telephone number.

14-09.2-04. Agreement or decision binding. Within five days of notice of the appointment, or within five days of notice of a subsequent parenting time dispute between the same parties, the parenting coordinator shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. The parenting coordinator may confer with the parties through a telephone conference or other means. A parenting coordinator may make a decision without conferring with a party if the parenting coordinator makes a good-faith effort to confer with the party. If the parties do not reach an agreement, the parenting coordinator shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all of the information necessary to make a decision and after the final meeting or conference with the parties. The parenting coordinator shall put the agreement or decision in writing and provide a copy to the parties. An agreement of the parties or a decision of the parenting coordinator is binding on the parties until further order of the court.

14-09.2-05. Fees. Before the appointment of the parenting coordinator, the court shall give the parties notice that the fees of the parenting coordinator will be apportioned between the parties. In its order appointing the parenting coordinator, the court shall apportion the fees of the parenting coordinator between the parties, with each party bearing the portion of the fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a parenting time dispute and there is not a court order that provides for apportionment of the fees of a parenting coordinator, the court may require the party requesting the appointment of a parenting coordinator to pay the fees of the coordinator in advance. Neither party may be required to submit a dispute to a parenting coordinator if the

party cannot afford to pay the fees of a parenting coordinator or an affordable coordinator is not available, unless the other party agrees to pay the fees. After the fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. Notwithstanding the provisions of section 14-09.2-06, the court may consider information from the parenting coordinator in determining bad faith.

14-09.2-06. Confidentiality. Statements made and documents produced as part of the parenting coordinator process which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment. Parenting coordinators and lawyers for the parties, to the extent of their participation in the parenting coordinator process, may not be subpoenaed or called as witnesses in court proceedings. Notes, records, and recollections of parenting coordinators are confidential and may not be disclosed unless:

1. The parties and the parenting coordinator agree in writing to the disclosure; or
2. Disclosure is required by law or other applicable professional codes. Notes and records of parenting coordinators may not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Unless the court determines that the notes and records contain information regarding acts that may be a violation of a state or federal criminal law, the notes and records may not be released.

14-09.2-07. Immunity. A parenting coordinator is immune from civil liability for damages for acts or omissions of ordinary negligence arising out of that individual's duties and responsibilities as a parenting coordinator.

14-09.2-08. Modification or termination of appointment. The court may terminate or modify the parenting coordinator appointment upon agreement of the parties, upon motion of either party, at the request of the parenting coordinator, or by the court on its own motion for good cause shown. Good cause includes:

1. Lack of reasonable progress over a significant period of time despite the best efforts of the parties and the parenting coordinator;
2. A determination that the parties no longer need the assistance of a parenting coordinator;
3. Impairment on the part of a party that significantly interferes with the party's participation in the process; or
4. The parenting coordinator is unwilling or unable to serve.

SECTION 12. REPEAL. Sections 14-09-04, 14-09-05, 14-09-06, 14-09-06.1, and 14-09-28 of the North Dakota Century Code are repealed.

SECTION 13. LEGISLATIVE INTENT - FUNDING. It is the intent of the sixty-first legislative assembly that the parenting coordinator program provided for in section 11 of this Act be self-sustaining and not receive any funding from the general fund after the 2009-11 biennium.

SECTION 14. EXPIRATION DATE. Section 11 of this Act is effective through June 30, 2013, and after that date is ineffective.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 150**SENATE BILL NO. 2157**

(Senators J. Lee, Nelson)

(Representatives Hawken, Nathe, Metcalf, Rust)

AN ACT to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to voluntary blood donation by minors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-10 of the North Dakota Century Code is created and enacted as follows:

Blood donation - Minors. An individual who is at least sixteen years of age may donate blood on a voluntary and noncompensatory basis without obtaining the consent of the individual's parent or guardian. Any notification of a medical condition must be mailed to the donor and the donor's parent or guardian.

Approved April 22, 2009

Filed April 23, 2009

CHAPTER 151**SENATE BILL NO. 2394**
(Senators Krebsbach, Erbele, Warner)
(Representatives Dahl, Metcalf)

AN ACT to create and enact a new section to chapter 14-10 of the North Dakota Century Code, relating to consent for prenatal care and other pregnancy care services provided to minors; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 14-10 of the North Dakota Century Code is created and enacted as follows:

Minor's consent for prenatal care and other pregnancy care services.

1.
 - a. A physician or other health care provider may provide pregnancy testing and pain management related to pregnancy to a minor without the consent of a parent or guardian.
 - b. A physician or other health care provider may provide prenatal care to a pregnant minor in the first trimester of pregnancy or may provide a single prenatal care visit in the second or third trimester of pregnancy without the consent of a parent or guardian.
 - c. A physician or other health care provider may provide prenatal care beyond the first trimester of pregnancy or in addition to the single prenatal care visit in the second or third trimester if, after a good-faith effort, the physician or other health care provider is unable to contact the minor's parent or guardian.
 - d. The costs incurred by the physician or other health care provider for performing services under this section may not be submitted to a third-party payer without the consent of the minor's parent or guardian.
 - e. This section does not authorize a minor to consent to abortion or otherwise supersede the requirements of chapter 14-02.1.
2. If a minor requests confidential services pursuant to subsection 1, the physician or other health care professional shall encourage the minor to involve her parents or guardian. Notwithstanding subsection 1, a physician or other health care professional or a health care facility may not be compelled against their best judgment to treat a minor based on the minor's own consent.
3. A physician or other health care professional who, pursuant to subsection 1, provides pregnancy care services to a minor may inform the parent or guardian of the minor of any pregnancy care services given or needed if the physician or other health care professional discusses with the minor the reasons for informing the parent or

guardian prior to the disclosure and, in the judgment of the physician or other health care professional:

- a. Failure to inform the parent or guardian would seriously jeopardize the health of the minor or her unborn child;
- b. Surgery or hospitalization is needed; or
- c. Informing the parent or guardian would benefit the health of the minor or her unborn child.

SECTION 2. SERVICES FOR PREGNANT MINORS - LEGISLATIVE COUNCIL STUDY. During the 2009-10 interim, the legislative council shall consider studying existing services for minors who are pregnant and whether additional education and social services would enhance the potential for a healthy child and a positive outcome for the minor. The study must consider the potential benefits of support services for parents of these minors and guardianship for the minor for cases in which parental abuse or neglect may be an issue. The study must also consider the benefits to the minor of subsidies for open adoptions and supportive housing and child care for single parents enrolled in secondary and postsecondary educational institutions. The study must also determine the most desirable evidence-based service delivery system and the amount and sources of adequate funding. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved April 22, 2009
Filed April 23, 2009

CHAPTER 152**SENATE BILL NO. 2072**

(Human Services Committee)

(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact sections 14-12.2-03.1, 14-12.2-12.1, 14-12.2-12.2, 14-12.2-32.1, 14-12.2-46.3, 14-12.2-46.4, 14-12.2-47.1, 14-12.2-47.2, 14-12.2-47.3, 14-12.2-47.4, 14-12.2-47.5, 14-12.2-47.6, 14-12.2-47.7, 14-12.2-47.8, 14-12.2-47.9, 14-12.2-47.10, 14-12.2-47.11, 14-12.2-47.12, and 14-12.2-47.13 of the North Dakota Century Code, relating to the Uniform Interstate Family Support Act; to amend and reenact sections 14-12.2-01, 14-12.2-02, 14-12.2-03, 14-12.2-04, 14-12.2-05, 14-12.2-06, 14-12.2-07, 14-12.2-08, 14-12.2-09, 14-12.2-10, 14-12.2-11, 14-12.2-12, 14-12.2-13, 14-12.2-14, 14-12.2-15, 14-12.2-16, 14-12.2-17, 14-12.2-18, 14-12.2-19, 14-12.2-20, 14-12.2-22, 14-12.2-23, 14-12.2-24, 14-12.2-25, 14-12.2-26, 14-12.2-28, 14-12.2-29, 14-12.2-30, 14-12.2-31, 14-12.2-32, 14-12.2-33, 14-12.2-33.1, 14-12.2-33.2, 14-12.2-33.3, 14-12.2-33.4, 14-12.2-33.5, 14-12.2-34, 14-12.2-35, 14-12.2-36, 14-12.2-37, 14-12.2-38, 14-12.2-39, 14-12.2-40, 14-12.2-41, 14-12.2-43, 14-12.2-44, 14-12.2-45, 14-12.2-46, 14-12.2-46.1, 14-12.2-48, and 14-12.2-49 of the North Dakota Century Code, relating to the Uniform Interstate Family Support Act; to repeal section 14-12.2-47 of the North Dakota Century Code, relating to proceedings to determine parentage; to provide for application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-12.2-01 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-01. (~~404~~ 102) Definitions. As used in this chapter:

1. "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.
2. "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.
3. "Convention" means the convention on the international recovery of child support and other forms of family maintenance, concluded at The Hague on November 23, 2007.
4. "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.
5. "Foreign country" means a country, including a political subdivision thereof, other than the United States, that under its law authorizes the issuance of support orders and:

- a. Which has been declared under the law of the United States to be a foreign reciprocating country;
 - b. Which has established a reciprocal arrangement for child support with this state as provided in section 14-12.2-20;
 - c. Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or
 - d. In which the convention is in force with respect to the United States.
6. "Foreign support order" means a support order of a foreign tribunal.
7. "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority in a proceeding subject to sections 14-12.2-47.1 through 14-12.2-47.13, which may be a judicial or administrative authority in a proceeding in a foreign country.
4. 8. "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period or other period.
5. 9. "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.
6. 10. "Income-withholding order" means an order or other legal process directed to an obligor's employer or income payer, as defined by section 14-09-09.10, to withhold support from the income of the obligor.
7. "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.
8. 11. "Initiating tribunal" means the authorized tribunal in an initiating state of a state or foreign country from which a proceeding is forwarded or in which a proceeding is filed for forwarding to another state or foreign country.
12. "Issuing foreign country" means the country in which a tribunal issues a support order or judgment determining parentage.
9. 13. "Issuing state" means the state in which a tribunal issues a support order or ~~renders~~ a judgment determining parentage.

- 40- 14. "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or ~~renders~~ a judgment determining parentage of a child.
- 44- 15. "Law" includes decisional and statutory law and rules having the force of law.
- 42- 16. "Obligee" means:
- a. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been ~~rendered~~ issued;
 - b. A state ~~or~~, a political subdivision of a state, or a foreign country, to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support; ~~or~~
 - c. An individual seeking a judgment determining parentage of the individual's child; or
 - d. A person that is a creditor in a proceeding subject to sections 14-12.2-47.1 through 14-12.2-47.13.
- 43- 17. "Obligor" means an individual, or the estate of a decedent:
- a. Who owes or is alleged to owe a duty of support;
 - b. Who is alleged but has not been adjudicated to be a parent of a child; ~~or~~
 - c. Who is liable under a support order; or
 - d. Who is a debtor in a proceeding subject to sections 14-12.2-47.1 through 14-12.2-47.13.
18. "Outside this state" means a location in another state or a country other than the United States, whether or not the country is defined as a foreign country.
19. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
20. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- 44- 21. "Register" means to file in a tribunal of this state a support order or judgment determining parentage ~~in the registry of foreign support orders~~ issued in another state or foreign country.
- 45- 22. "Registering tribunal" means a tribunal in which a support order or judgment determining parentage is registered.

- 46- 23. "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from ~~an initiating another state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act or foreign country.~~
- 47- 24. "Responding tribunal" means the authorized tribunal in a responding state or foreign country.
- 48- 25. "Spousal support order" means a support order for a spouse or former spouse of the obligor.
- 49- 26. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:
- a. ~~An~~ an Indian nation or tribe; and
 - b. ~~A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.~~
- 20- 27. "Support enforcement agency" means a public official or agency authorized to seek:
- a. ~~Enforcement~~ Seek enforcement of support orders or laws relating to the duty of support;
 - b. ~~Establishment~~ Seek establishment or modification of child support;
 - c. ~~Determination~~ Request determination of parentage of a child; or
 - d. ~~To Attempt to~~ locate obligors or their assets; or
 - e. Request determination of the controlling child support order.
- 24- 28. "Support order" means a judgment, decree, ~~or~~ order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement; ~~and for financial assistance provided to an individual obligee in place of child support.~~ The support order may include related costs and fees, interest, income withholding, automatic adjustment, attorney's fees, and other relief.
- 22- 29. "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.
- 30- "United States" means all states.

SECTION 2. AMENDMENT. Section 14-12.2-02 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-02. (402 103) Tribunal of this state State tribunal and support enforcement agency.

1. The district court is the tribunal of this state.
2. The department of human services is the support enforcement agency of this state.

SECTION 3. AMENDMENT. Section 14-12.2-03 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-03. (403 104) Remedies cumulative.

1. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a support order on the basis of comity.
2. This chapter does not:
 - a. Provide the exclusive method of establishing or enforcing a support order under the law of this state; or
 - b. Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.

SECTION 4. Section 14-12.2-03.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-03.1. (105) Application of chapter to resident of foreign country and foreign support proceeding.

1. A tribunal of this state shall apply sections 14-12.2-01 through 14-12.2-46.4 and, as applicable, sections 14-12.2-47.1 through 14-12.2-47.13, to a support proceeding involving:
 - a. A foreign support order;
 - b. A foreign tribunal; or
 - c. An obligee, obligor, or child residing in a foreign country.
2. A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of sections 14-12.2-01 through 14-12.2-46.4.
3. Sections 14-12.2-47.1 through 14-12.2-47.13 apply only to a support proceeding subject to the convention. In such a proceeding, if a provision of sections 14-12.2-47.1 through 14-12.2-47.13 is inconsistent with a provision of sections 14-12.2-01 through 14-12.2-46.4, sections 14-12.2-47.1 through 14-12.2-47.13 control.

SECTION 5. AMENDMENT. Section 14-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-04. (201) Bases for jurisdiction over nonresident.

1. In a proceeding to establish, or enforce, or modify a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:
 - ~~1.~~ a. The individual is personally served with a summons within this state;
 - ~~2.~~ b. The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
 - ~~3.~~ c. The individual resided with the child in this state;
 - ~~4.~~ d. The individual resided in this state and provided prenatal expenses or support for the child;
 - ~~5.~~ e. The child resides in this state as a result of the acts or directives of the individual;
 - ~~6.~~ f. The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or
 - ~~7.~~ g. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.
2. The bases of personal jurisdiction set forth in subsection 1 or any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 14-12.2-45 are met, or, in the case of a foreign support order, unless the requirements of section 14-12.2-46.3 are met.

SECTION 6. AMENDMENT. Section 14-12.2-05 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-05. (202) Procedure when exercising jurisdiction over nonresident Duration of personal jurisdiction. ~~A tribunal of this state exercising personal jurisdiction over a nonresident under section 14-12.2-04 may apply section 14-12.2-28 to receive evidence from another state and section 14-12.2-30 to obtain discovery through a tribunal of another state. In all other respects, sections 14-12.2-13 through 14-12.2-47 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 14-12.2-08, 14-12.2-09, and 14-12.2-12.2.~~

SECTION 7. AMENDMENT. Section 14-12.2-06 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-06. (203) Initiating and responding tribunal of this state. Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or foreign country.

SECTION 8. AMENDMENT. Section 14-12.2-07 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-07. (204) Simultaneous proceedings in another state.

1. A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state or foreign country only if:
 - a. The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or foreign country;
 - b. The contesting party timely challenges the exercise of jurisdiction in the other state or foreign country; and
 - c. If relevant, this state is the home state of the child.
2. A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or foreign country if:
 - a. The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;
 - b. The contesting party timely challenges the exercise of jurisdiction in this state; and
 - c. If relevant, the other state or foreign country is the home state of the child.

SECTION 9. AMENDMENT. Section 14-12.2-08 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-08. (205) Continuing, exclusive jurisdiction to modify child support order.

1. A tribunal of this state ~~issuing~~ that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction ~~over a~~ to modify its child support order if the order is the controlling order and:

- a. ~~As long as~~ At the time of the filing of a request for modification this state ~~remains~~ is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
 - b. ~~Until all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction. Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.~~
2. A tribunal of this state ~~issuing~~ that has issued a child support order consistent with the law of this state may not exercise ~~its~~ continuing, exclusive jurisdiction to modify the order if ~~the order has been modified by a tribunal of another state pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter:~~
- a. All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or
 - b. Its order is not the controlling order.
3. If a child support order of this state is modified by a tribunal of another state pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:
- a. Enforce the order that was modified as to amounts accruing before the modification;
 - b. Enforce nonmodifiable aspects of that order; and
 - e. Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.
4. A tribunal of this state shall recognize the continuing, exclusive jurisdiction of if a tribunal of another state ~~which~~ has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to ~~this chapter~~ that Act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.
4. A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.
5. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

6. A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

SECTION 10. AMENDMENT. Section 14-12.2-09 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-09. (206) Enforcement and modification of support order by tribunal having continuing jurisdiction Continuing jurisdiction to enforce child support order.

1. A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state:
 - a. The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or
 - b. A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.
2. A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 14-12.2-28 to receive evidence from another state and section 14-12.2-30 to obtain discovery through a tribunal of another state.
3. A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

SECTION 11. AMENDMENT. Section 14-12.2-10 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-10. (207) Recognition Determination of controlling child support order.

1. If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.
2. If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state or foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules in determining and by order shall determine which order to recognize for purposes of continuing, exclusive jurisdiction controls:

- a. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.
 - b. If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, ~~an~~:
 - (1) An order issued by a tribunal in the current home state of the child controls and must be so recognized, but if; or
 - (2) If an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.
 - c. If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state ~~having jurisdiction over the parties~~ shall issue a child support order, which controls and must be so recognized.
3. If two or more child support orders have been issued for the same obligor and same child and if the obligor or the individual obligee resides in this state, a, upon request of a party may request who is an individual or a support enforcement agency, a tribunal of this state to having personal jurisdiction over both the obligor and obligee who is an individual shall determine which order controls and must be so recognized under subsection 2. The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination. The request may be filed with a registration for enforcement or registration for modification pursuant to sections 14-12.2-35 through 14-12.2-46.4, or may be filed as a separate proceeding.
4. A request to determine which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.
5. The tribunal that issued the controlling order under subsection 1, 2, or 3 is the tribunal that has continuing, exclusive jurisdiction under to the extent provided in section 14-12.2-08 or 14-12.2-09.
6. A tribunal of this state which that determines by order the identity of which is the controlling order under subdivision a or b of subsection 2 or which subsection 3 that issues a new controlling order under subdivision c of subsection 2 shall state in that order the:
- a. The basis upon which the tribunal made its determination;
 - b. The amount of prospective support, if any; and
 - c. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided in by section 14-12.2-12.

- ~~6.~~ 7. Within thirty days after issuance of an order determining ~~the identity of~~ which is the controlling order, the party obtaining the order shall file a certified copy of it ~~with~~ in each tribunal that had issued or registered an earlier order of child support. A party ~~who obtains~~ or support enforcement agency obtaining the order ~~and~~ that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.
8. An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

SECTION 12. AMENDMENT. Section 14-12.2-11 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-11. (208) Multiple child Child support orders for two or more obligees. In responding to ~~multiple~~ registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state or foreign country, a tribunal of this state shall enforce those orders in the same manner as if the ~~multiple~~ orders had been issued by a tribunal of this state.

SECTION 13. AMENDMENT. Section 14-12.2-12 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-12. (209) Credit for payments. ~~Amounts~~ A tribunal of this state shall credit amounts collected and credited for a particular period pursuant to a any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this or another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state or foreign country.

SECTION 14. Section 14-12.2-12.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-12.1. (210) Application of chapter to nonresident subject to personal jurisdiction. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to section 14-12.2-28, communicate with a tribunal outside this state pursuant to section 14-12.2-29, and obtain discovery through a tribunal outside this state pursuant to section 14-12.2-30. In all other respects, sections 14-12.2-13 through 14-12.2-47.13 do not apply and the tribunal shall apply the procedural and substantive law of this state.

SECTION 15. Section 14-12.2-12.2 of the North Dakota Century Code is created and enacted as follows:

14-12.2-12.2. (211) Continuing, exclusive jurisdiction to modify spousal support order.

1. A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.
2. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.
3. A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:
 - a. An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or
 - b. A responding tribunal to enforce or modify its own spousal support order.

SECTION 16. AMENDMENT. Section 14-12.2-13 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-13. (301) Proceedings under this chapter.

1. Except as otherwise provided in this chapter, sections 14-12.2-13 through 14-12.2-31 apply to all proceedings under this chapter.
2. ~~This chapter provides for the following proceedings:~~
 - a. ~~Establishment of an order for spousal support or child support under section 14-12.2-32;~~
 - b. ~~Enforcement of a support order and income-withholding order of another state without registration under sections 14-12.2-33 and 14-12.2-34;~~
 - c. ~~Registration of an order for spousal support or child support of another state for enforcement under sections 14-12.2-35 through 14-12.2-46;~~
 - d. ~~Modification of an order for child support or spousal support issued by a tribunal of this state under sections 14-12.2-06 through 14-12.2-09;~~
 - e. ~~Registration of an order for child support of another state for modification under sections 14-12.2-35 through 14-12.2-46;~~
 - f. ~~Determination of parentage under section 14-12.2-47; and~~

~~g. Assertion of jurisdiction over nonresidents under sections 14-12.2-04 and 14-12.2-05.~~

3. An individual petitioner or a support enforcement agency may ~~commence~~ initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or foreign country which has or can obtain personal jurisdiction over the respondent.

SECTION 17. AMENDMENT. Section 14-12.2-14 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-14. (302) Action Proceeding by minor parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

SECTION 18. AMENDMENT. Section 14-12.2-15 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-15. (303) Application of law of this state. Except as otherwise provided by this chapter, a responding tribunal of this state shall:

1. ~~Shall apply~~ Apply the procedural and substantive law, ~~including the rules on choice of law,~~ generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and
2. ~~Shall determine~~ Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

SECTION 19. AMENDMENT. Section 14-12.2-16 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-16. (304) Duties of initiating tribunal.

1. Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward ~~three copies of~~ the petition and its accompanying documents:
 - a. To the responding tribunal or appropriate support enforcement agency in the responding state; or
 - b. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.
2. ~~If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to this chapter requested by the responding tribunal,~~ a tribunal of this state ~~may~~ shall issue a certificate or other document and make findings required by the law of the responding state. ~~If the responding state tribunal is in a foreign jurisdiction country, upon request the tribunal may of this state shall specify the amount of support sought and, convert that amount into the equivalent amount in the foreign currency under applicable official or~~

market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state foreign tribunal.

SECTION 20. AMENDMENT. Section 14-12.2-17 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-17. (305) Duties and powers of responding tribunal.

1. When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly under subsection ~~3~~ 2 of section 14-12.2-13, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.
2. A responding tribunal of this state, to the extent ~~otherwise authorized not prohibited~~ by other law, may do one or more of the following:
 - a. ~~Issue~~ Establish or enforce a support order, modify a child support order, determine the controlling child support order, or render a judgment to determine parentage of a child;
 - b. Order an obligor to comply with a support order, specifying the amount and the manner of compliance;
 - c. Order income withholding;
 - d. Determine the amount of any arrearages, and specify a method of payment;
 - e. Enforce orders by civil or criminal contempt, or both;
 - f. Set aside property for satisfaction of the support order;
 - g. Place liens and order execution on the obligor's property;
 - h. Order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;
 - i. Issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
 - j. Order the obligor to seek appropriate employment by specified methods;
 - k. Award reasonable attorney's fees and other fees and costs; and
 - l. Grant any other available remedy.
3. A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

4. A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.
5. If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.
6. If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

SECTION 21. AMENDMENT. Section 14-12.2-18 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-18. (306) Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, ~~the tribunal~~ shall forward the pleading and accompanying documents to an appropriate tribunal ~~in~~ of this state or another state and notify the petitioner where and when the pleading was sent.

SECTION 22. AMENDMENT. Section 14-12.2-19 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-19. (307) Duties of support enforcement agency.

1. A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.
2. A support enforcement agency of this state that is providing services to the petitioner ~~as appropriate~~ shall:
 - a. Take all steps necessary to enable an appropriate tribunal ~~in~~ of this state or another state or foreign country to obtain jurisdiction over the respondent;
 - b. Request an appropriate tribunal to set a date, time, and place for a hearing;
 - c. Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
 - d. Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a ~~written~~ notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;
 - e. Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a ~~written~~ communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and
 - f. Notify the petitioner if jurisdiction over the respondent cannot be obtained.

3. A support enforcement agency of this state which requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:
 - a. To ensure that the order to be registered is the controlling order; or
 - b. If two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.
4. A support enforcement agency of this state which requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.
5. A support enforcement agency of this state shall request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to section 14-12.2-31.
6. This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

SECTION 23. AMENDMENT. Section 14-12.2-20 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-20. (308) Duty of attorney general.

1. If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.
2. The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

SECTION 24. AMENDMENT. Section 14-12.2-22 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-22. (310) Duties of state information agency.

1. The department of human services is the state information agency under this chapter.
2. The state information agency shall:
 - a. Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.

- b. Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states.
- c. Forward to the appropriate tribunal in the place county in this state in which the ~~individual~~ obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from ~~an initiating tribunal or the state information agency of the initiating state~~ another state or foreign country.
- d. Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

SECTION 25. AMENDMENT. Section 14-12.2-23 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-23. (311) Pleadings and accompanying documents.

1. ~~A In a proceeding under this chapter, a petitioner seeking to establish or modify a support order or, to determine parentage in a proceeding under this chapter, or to register and modify a support order of a tribunal of another state or foreign country must verify the~~ file a petition. Unless otherwise ordered under section 14-12.2-24, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee ~~or the parent and alleged parent,~~ and the name, sex, residential address, social security number, and date of birth of each child for ~~whom whose benefit support is sought or whose parentage is to be determined.~~ The ~~Unless filed at the time of registration, the~~ petition must be accompanied by a ~~certified~~ copy of any support order ~~in effect known to have been issued by another tribunal.~~ The petition may include any other information that may assist in locating or identifying the respondent.
2. The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

SECTION 26. AMENDMENT. Section 14-12.2-24 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-24. (312) Nondisclosure of information in exceptional circumstances. ~~Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter. If a party alleges in an affidavit or a pleading under oath that the health, safety, or~~

liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

SECTION 27. AMENDMENT. Section 14-12.2-25 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-25. (313) Costs and fees.

1. The petitioner may not be required to pay a filing fee or other costs.
2. If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state or foreign country, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.
3. The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 14-12.2-35 through 14-12.2-46, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

SECTION 28. AMENDMENT. Section 14-12.2-26 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-26. (314) Limited immunity of petitioner.

1. Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.
2. A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.
3. The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while physically present in this state to participate in the proceeding.

SECTION 29. AMENDMENT. Section 14-12.2-28 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-28. (316) Special rules of evidence and procedure.

1. The physical presence of ~~the petitioner~~ a nonresident party who is an individual in a ~~responding~~ tribunal of this state is not required for the

establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

2. A ~~verified petition~~, An affidavit, a document substantially complying with federally mandated forms, ~~and or~~ a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under ~~oath~~ penalty of perjury by a party or witness residing ~~in another~~ outside this state.
3. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.
4. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.
5. Documentary evidence transmitted from ~~another~~ outside this state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original ~~writing~~ record may not be excluded from evidence on an objection based on the means of transmission.
6. In a proceeding under this chapter, a tribunal of this state ~~may~~ shall permit a party or witness residing ~~in another~~ outside this state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with ~~other tribunals of other states~~ in designating an appropriate location for the deposition or testimony.
7. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.
8. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.
9. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.
10. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

SECTION 30. AMENDMENT. Section 14-12.2-29 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-29. (317) Communications between tribunals. A tribunal of this state may communicate with a tribunal ~~of another~~ outside this state in ~~writing a record~~, or by telephone or other means, to obtain information concerning the laws ~~of that state~~, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding ~~in the other state~~. A tribunal of this state may furnish similar information by similar means to a tribunal ~~of another~~ outside this state.

SECTION 31. AMENDMENT. Section 14-12.2-30 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-30. (318) Assistance with discovery. A tribunal of this state may:

1. Request a tribunal ~~of another~~ outside this state to assist in obtaining discovery; and
2. Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal ~~of another~~ outside this state.

SECTION 32. AMENDMENT. Section 14-12.2-31 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-31. (319) Receipt and disbursement of payments.

1. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or foreign country a certified statement by the custodian of the record of the amounts and dates of all payments received.
2. If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:
 - a. Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and
 - b. Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.
3. The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection 2 shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

SECTION 33. AMENDMENT. Section 14-12.2-32 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-32. (401) Petition to establish support order.

1. If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:
 - a. The individual seeking the order resides ~~in another~~ outside this state; or
 - b. The support enforcement agency seeking the order is located ~~in another~~ outside this state.

2. The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:
 - a. ~~The respondent has signed a verified statement acknowledging parentage~~ A presumed father of the child;
 - b. ~~The respondent has been determined by or pursuant to law to be the parent~~ Petitioning to have his paternity adjudicated; or
 - c. ~~There is other clear and convincing evidence that the respondent is the child's parent~~ Identified as the father of the child through genetic testing;
 - d. An alleged father who has declined to submit to genetic testing;
 - e. Shown by clear and convincing evidence to be the father of the child;
 - f. An acknowledged father as provided by chapter 14-20;
 - g. The mother of the child; or
 - h. An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.
3. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders under section 14-12.2-17.

SECTION 34. Section 14-12.2-32.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-32.1. (402) Proceeding to determine parentage. A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this chapter or a law or procedure substantially similar to this chapter.

SECTION 35. AMENDMENT. Section 14-12.2-33 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33. (501) Employer's receipt of income-withholding order of another state. An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person or entity defined as the obligor's employer under section 14-09-09.10 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

SECTION 36. AMENDMENT. Section 14-12.2-33.1 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.1. (502) Employer's compliance with income-withholding order of another state.

1. Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

2. The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.
3. Except as otherwise provided by subsection 4 and section 14-12.2-33.2, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:
 - a. The duration and amount of periodic payments of current child support, stated as a sum certain;
 - b. The person or agency designated to receive payments and the address to which the payments are to be forwarded;
 - c. Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
 - d. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
 - e. The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.
4. An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:
 - a. The employer's fee for processing an income-withholding order;
 - b. The maximum amount permitted to be withheld from the obligor's income; and
 - c. The times within which the employer must implement the withholding order and forward the child support payment.

SECTION 37. AMENDMENT. Section 14-12.2-33.2 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.2. (503) Compliance ~~Employer's compliance with multiple two or more income-withholding orders.~~ If an obligor's employer receives ~~multiple two or more~~ income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the ~~multiple~~ orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for ~~multiple two or more~~ child support obligees.

SECTION 38. AMENDMENT. Section 14-12.2-33.3 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.3. (504) Immunity from civil liability. An employer ~~who~~ that complies with an income-withholding order issued in another state in accordance

with this chapter is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 39. AMENDMENT. Section 14-12.2-33.4 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.4. (505) Penalties for noncompliance. An employer ~~who~~ that willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

SECTION 40. AMENDMENT. Section 14-12.2-33.5 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.5. (506) Contest by obligor.

1. An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in sections 14-12.2-35 through 14-12.2-46.4, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state. ~~Section 14-12.2-38 applies to the contest.~~
2. The obligor shall give notice of the contest to:
 - a. A support enforcement agency providing services to the obligee;
 - b. Each employer that has directly received an income-withholding order relating to the obligor; and
 - c. The person ~~or agency~~ designated to receive payments in the income-withholding order or if no person ~~or agency~~ is designated, to the obligee.

SECTION 41. AMENDMENT. Section 14-12.2-34 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-34. (507) Administrative enforcement of orders.

1. A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued ~~by a tribunal of in~~ in another state or a foreign support order may send the documents required for registering the order to a support enforcement agency of this state.
2. Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

SECTION 42. AMENDMENT. Section 14-12.2-35 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-35. (601) Registration of order for enforcement. A support order or an income-withholding order issued by a ~~tribunal of~~ in another state or a foreign support order may be registered in this state for enforcement.

SECTION 43. AMENDMENT. Section 14-12.2-36 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-36. (602) Procedure to register order for enforcement.

1. A Subject to section 14-12.2-47.6, a support order or income-withholding order of another state or a foreign support order may be registered in this state by sending the following ~~documents and information~~ records to the appropriate tribunal in this state:
 - a. A letter of transmittal to the tribunal requesting registration and enforcement;
 - b. Two copies, including one certified copy, of ~~all orders~~ the order to be registered, including any modification of ~~an~~ the order;
 - c. A sworn statement by the ~~party seeking~~ person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
 - d. The name of the obligor and, if known:
 - (1) The obligor's address and social security number;
 - (2) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (3) A description and the location of property of the obligor in this state not exempt from execution; and
 - e. ~~The~~ Except as otherwise provided in section 14-12.2-24, name and address of the obligee and, if applicable, the ~~agency or~~ person to whom support payments are to be remitted.
2. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as ~~a foreign judgment~~ an order of another state or foreign country, together with one copy of the documents and information, regardless of their form.
3. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.
4. If two or more orders are in effect, the person requesting registration shall:
 - a. Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

- b. Specify the order alleged to be the controlling order, if any; and
 - c. Specify the amount of consolidated arrears, if any.
5. A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the requests to each party whose rights may be affected by the determination.

SECTION 44. AMENDMENT. Section 14-12.2-37 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-37. (603) Effect of registration for enforcement.

1. A support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.
2. A registered order issued in another state or foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.
3. Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

SECTION 45. AMENDMENT. Section 14-12.2-38 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-38. (604) Choice of law.

1. ~~The~~ Except as otherwise provided in subsection 4, the law of the issuing state or foreign country governs the:
 - a. ~~The nature, extent, amount, and duration of current payments and other obligations of support and the~~ under a registered support order;
 - b. ~~The computation and payment of arrearages and accrual of interest on the arrearages under the~~ support order; and
 - c. ~~The existence and satisfaction of other obligations under the~~ support order.
2. In a proceeding for arrearages under a registered support order, the statute of limitation ~~under the laws~~ of this state, or of the issuing state or foreign country, whichever is longer, applies.
3. A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or foreign country registered in this state.
4. After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a

tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

SECTION 46. AMENDMENT. Section 14-12.2-39 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-39. (605) Notice of registration of order.

1. When a support order or income-withholding order issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.
2. ~~The~~ A notice must inform the nonregistering party:
 - a. That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;
 - b. That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice unless the registered order is subject to section 14-12.2-47.7;
 - c. That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages ~~and precludes further contest of that order with respect to any matter that could have been asserted;~~ and
 - d. Of the amount of any alleged arrearages.
3. If the registering party asserts that two or more orders are in effect, a notice must also:
 - a. Identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;
 - b. Notify the nonregistering party of the right to a determination of which is the controlling order;
 - c. State that the procedures provided in subsection 2 apply to the determination of which is the controlling order; and
 - d. State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.
4. Upon registration of an income-withholding order for enforcement, the support enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to the income-withholding requirements of chapter 14-09.

SECTION 47. AMENDMENT. Section 14-12.2-40 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-40. (606) Procedure to contest validity or enforcement of registered order.

1. A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing ~~within twenty days after notice of the registration~~ in accordance with the notice provided in section 14-12.2-39. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 14-12.2-41.
2. If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.
3. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

SECTION 48. AMENDMENT. Section 14-12.2-41 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-41. (607) Contest of registration or enforcement.

1. A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
 - a. The issuing tribunal lacked personal jurisdiction over the contesting party;
 - b. The order was obtained by fraud;
 - c. The order has been vacated, suspended, or modified by a later order;
 - d. The issuing tribunal has stayed the order pending appeal;
 - e. There is a defense under the law of this state to the remedy sought;
 - f. Full or partial payment has been made; ~~or~~
 - g. The statute of limitation under section 14-12.2-38 precludes enforcement of some or all of the alleged arrearages; or
 - h. The alleged controlling order is not the controlling order.
2. If a party presents evidence establishing a full or partial defense under subsection 1, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

3. If the contesting party does not establish a defense under subsection 1 to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

SECTION 49. AMENDMENT. Section 14-12.2-43 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-43. (609) Procedure to register child support order of another state for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in sections 14-12.2-35 through ~~14-12.2-38 of this chapter~~ 14-12.2-42 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration or later. The pleading must specify the grounds for modification.

SECTION 50. AMENDMENT. Section 14-12.2-44 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-44. (610) Effect of registration for modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 14-12.2-45 or 14-12.2-46.1 have been met.

SECTION 51. AMENDMENT. Section 14-12.2-45 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-45. (611) Modification of child support order of another state.

1. ~~After~~ If section 14-12.2-46.1 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state ~~has been~~ which is registered in this state; the responding tribunal of this state may modify that order only if section 14-12.2-46.1 does not apply and if, after notice and hearing it, the tribunal finds that:
 - a. The following requirements are met:
 - (1) ~~The~~ Neither the child, nor the individual obligee who is an individual, and nor the obligor do not reside resides in the issuing state;
 - (2) A petitioner who is a nonresident of this state seeks modification; and
 - (3) The respondent is subject to the personal jurisdiction of the tribunal of this state; or
 - b. ~~The~~ This state is the residence of the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed written consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under the Uniform Interstate Family Support Act, the consent otherwise

~~required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.~~

2. Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.
3. A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under section 14-12.2-10 establishes the aspects of the support order which are nonmodifiable.
4. In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.
5. On issuance of an order by a tribunal of this state modifying a child support order issued in another state, a the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.
6. Without regard to the restrictions on modification of a child support order stated in subsection 2 of section 14-12.2-04 and this section, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:
 - a. One party resides in another state; and
 - b. The other party resides outside the United States.

SECTION 52. AMENDMENT. Section 14-12.2-46 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-46. (612) Recognition of order modified in another state. ~~A If a child support order issued by a tribunal of this state shall recognize a modification of its earlier child support order is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall, a tribunal of this state:~~

1. ~~Enforce the~~ May enforce its order that was modified only as to ~~amounts~~ arrears and interest accruing before the modification;
2. ~~Enforce only nonmodifiable aspects of that order;~~
3. ~~Provide other~~ May provide appropriate relief ~~only~~ for violations of ~~that its~~ its order which occurred before the effective date of the modification; and
4. ~~3. Recognize~~ Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

SECTION 53. AMENDMENT. Section 14-12.2-46.1 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-46.1. (613) Jurisdiction to modify child support order of another state when individual parties reside in this state.

1. If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.
2. A tribunal of this state exercising jurisdiction under this section shall apply the provisions of sections 14-12.2-01 through 14-12.2-12, sections 14-12.2-35 through ~~14-12.2-46.2~~ 14-12.2-46.4, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Sections 14-12.2-13 through 14-12.2-34 and sections 14-12.2-47, 14-12.2-48, and 14-12.2-49 do not apply.

SECTION 54. Section 14-12.2-46.3 of the North Dakota Century Code is created and enacted as follows:

14-12.2-46.3. (615) Jurisdiction to modify child support order of foreign country or political subdivision.

1. Except as otherwise provided in section 14-12.2-47.11, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to section 14-12.2-45 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.
2. An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

SECTION 55. Section 14-12.2-46.4 of the North Dakota Century Code is created and enacted as follows:

14-12.2-46.4. (616) Procedure to register child support order of foreign country for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not subject to the convention may register that order in this state as provided in sections 14-12.2-35 through 14-12.2-42 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

SECTION 56. Section 14-12.2-47.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.1. (701) Definitions. In sections 14-12.2-47.1 through 14-12.2-47.13:

1. "Application" means a request under the convention by an obligee, obligor, or on behalf of a child, made through a central authority for assistance from another central authority.
2. "Central authority" means the entity designated by a country to perform the functions specified in the convention.
3. "Convention support order" means an order of a tribunal of a foreign country in which the convention is in force with respect to the United States.
4. "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.
5. "Foreign central authority" means the entity designated by a foreign country in which the convention is in force with respect to the United States to perform the functions specified in the convention.
6. "Foreign support agreement" means an agreement for support in a record, also known as a maintenance arrangement in the convention, that:
 - a. Is enforceable as a support order in the country of origin;
 - b. Has been formally drawn up or registered or has been authenticated by, or concluded, registered, or filed with a foreign tribunal; and
 - c. May be reviewed and modified by a foreign tribunal.
7. "United States central authority" means the secretary of the United States department of health and human services.

SECTION 57. Section 14-12.2-47.2 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.2. (702) Applicability. Sections 14-12.2-47.1 through 14-12.2-47.13 apply only to a support proceeding involving a foreign country in which the convention is in force with respect to the United States. In such a proceeding, if a provision of sections 14-12.2-47.1 through 14-12.2-47.13 is inconsistent with a provision of sections 14-12.2-01 through 14-12.2-46.4, sections 14-12.2-47.1 through 14-12.2-47.13 control.

SECTION 58. Section 14-12.2-47.3 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.3. (703) Relationship of department of human services to United States central authority. The department of human services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

SECTION 59. Section 14-12.2-47.4 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.4. (704) Initiation by department of human services of support proceeding subject to convention.

1. In a proceeding subject to the convention, the department of human services of this state shall:
 - a. Transmit and receive applications; and
 - b. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
2. The following support proceedings are available to an obligee under the convention:
 - a. Recognition or recognition and enforcement of a foreign support order;
 - b. Enforcement of a support order issued or recognized in this state;
 - c. Establishment of a support order if there is no existing order, including, where necessary, determination of parentage;
 - d. Establishment of a support order if recognition of a foreign support order is refused under subsection 2, 4, or 9 of section 14-12.2-47.8;
 - e. Modification of a support order of a tribunal of this state; and
 - f. Modification of a support order of a tribunal of another state or foreign country.
3. The following support proceedings are available under the convention to an obligor against whom there is an existing support order:
 - a. Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
 - b. Modification of a support order of a tribunal of this state; and
 - c. Modification of a support order of a tribunal of another state or foreign country.
4. A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

SECTION 60. Section 14-12.2-47.5 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.5. (705) Direct request.

1. A petitioner may file a direct request in a tribunal of this state seeking the establishment or modification of a support order or determination of parentage. In such a proceeding, the law of this state applies.

2. A petitioner may file a direct request in a tribunal of this state seeking the recognition and enforcement of a support order or support agreement. In such a proceeding, the provisions of sections 14-12.2-47.6 through 14-12.2-47.13 apply.
3. In a direct request for recognition and enforcement of a convention support order or foreign support agreement:
 - a. No security, bond, or deposit shall be required to guarantee the payment of costs and expenses related to the proceedings; and
 - b. The obligee or obligor, who in the issuing country has benefited from free legal assistance, shall be entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.
4. An individual filing directly with a tribunal will not receive assistance from the department of human services.
5. Nothing in sections 14-12.2-47.1 through 14-12.2-47.13 prevents the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or support agreement.

SECTION 61. Section 14-12.2-47.6 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.6. (706) Registration of convention support order.

1. Except as otherwise provided in sections 14-12.2-47.1 through 14-12.2-47.13, a party who is an individual or a support enforcement agency seeking recognition of a convention support order shall register the order in this state as provided in sections 14-12.2-35 through 14-12.2-46.4.
2. Notwithstanding section 14-12.2-23 and subsection 1 of section 14-12.2-36, a request for registration of a convention support order must be accompanied by:
 - a. A complete text of the support order, or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague conference on private international law;
 - b. A record stating that the support order is enforceable in the issuing country;
 - c. If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;
 - d. A record showing the amount of arrears, if any, and the date the amount was calculated;

- e. A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and
 - f. If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.
3. A request for registration of a convention support order may seek recognition and partial enforcement of the order.
 4. A tribunal of this state may vacate the registration of a convention support order on its own motion, without the filing of a contest under section 14-12.2-47.7 only if the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.
 5. The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

SECTION 62. Section 14-12.2-47.7 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.7. (707) Contest of registered convention support order.

1. Except as otherwise provided in sections 14-12.2-47.1 through 14-12.2-47.13, sections 14-12.2-39 through 14-12.2-42 apply to a contest of a registered convention support order.
2. A party contesting a registered convention support order must file a contest within thirty days after notice of the registration unless the contesting party does not reside in the United States, in which case the contest must be filed within sixty days after notice.
3. If the nonregistering party fails to contest the registered convention support order in a timely manner, the order is enforceable by operation of law.
4. A contest of a registered convention support order may be based only on grounds set forth in section 14-12.2-47.8, and the contesting party bears the burden of proof.
5. In a contest of a registered convention support order, a tribunal of this state:
 - a. Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and
 - b. May not review the merits of the support order.
6. A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.
7. An appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

SECTION 63. Section 14-12.2-47.8 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.8. (708) Refusal of recognition and enforcement of registered convention support order. A tribunal of this state may refuse recognition and enforcement of a registered convention support order only on the following grounds:

1. Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
2. The issuing tribunal lacked personal jurisdiction consistent with section 14-12.2-04;
3. The order is not enforceable in the issuing country;
4. The order was obtained by fraud in connection with a matter of procedure;
5. A record transmitted in accordance with section 14-12.2-47.6 lacks authenticity or integrity;
6. A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;
7. The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement in this state;
8. Payment, to the extent alleged arrears have been paid in whole or in part;
9. In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country when the law of that country:
 - a. Provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or
 - b. Does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or
10. The order was made in violation of section 14-12.2-47.11.

SECTION 64. Section 14-12.2-47.9 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.9. (709) Partial enforcement - New support order.

1. If a tribunal of this state may not recognize and enforce the whole of a convention support order, it shall enforce any severable part of the

order. An application or direct request may seek recognition and partial enforcement of a convention support order.

2. If a tribunal of this state may not recognize a convention support order under subsection 2, 4, or 9 of section 14-12.2-47.8:
 - a. The tribunal may not dismiss proceeding without allowing a reasonable time for a party to request the establishment of a new support order;
 - b. The department of human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-12.2-47.4.

SECTION 65. Section 14-12.2-47.10 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.10. (710) Foreign support agreement.

1. Except as provided in subsections 3 and 4, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.
2. An application or direct request for recognition and enforcement of a foreign support agreement shall be accompanied by:
 - a. A complete text of the foreign support agreement; and
 - b. A record stating that the foreign support agreement is enforceable as a decision in the issuing country.
3. A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.
4. In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:
 - a. Recognition and enforcement of the agreement is manifestly incompatible with public policy;
 - b. The agreement was obtained by fraud or falsification;
 - c. The agreement is incompatible with a support order involving the same parties and having the same purpose, either in this state, another state, or a foreign country if the support order is entitled to recognition in this state; or
 - d. The record submitted under subsection 2 lacks authenticity or integrity.
5. A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to the agreement before a tribunal of another state or foreign country.

SECTION 66. Section 14-12.2-47.11 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.11. (711) Modification of child support order subject to convention.

1. A tribunal of this state may not modify a child support order subject to the convention if the obligee remains a resident of the foreign country where the support order was issued unless:
 - a. The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or
 - b. The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.
2. If a tribunal of this state may not modify the child support order subject to the convention because the order may not be recognized in this state, subdivision a of subsection 2 of section 14-12.2-47.9 applies.

SECTION 67. Section 14-12.2-47.12 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.12. (712) Personal information - Limit on use. Personal information gathered or transmitted under sections 14-12.2-47.1 through 14-12.2-47.13 may be used only for the purposes for which it was gathered or transmitted.

SECTION 68. Section 14-12.2-47.13 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.13. (713) English translation required. A record filed with a tribunal of this state under sections 14-12.2-47.1 through 14-12.2-47.13 must be in the original language and, if necessary, must be accompanied by an English translation.

SECTION 69. AMENDMENT. Section 14-12.2-48 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-48. (801) Grounds for rendition.

1. For purposes of sections 14-12.2-48 and 14-12.2-49, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.
2. The governor of this state may:
 - a. Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or
 - b. On the demand ~~by~~ of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

3. A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

SECTION 70. AMENDMENT. Section 14-12.2-49 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-49. (802) Conditions of rendition.

1. Before making a demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.
2. If, under this chapter or a law substantially similar to this chapter, the ~~Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act,~~ the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.
3. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

SECTION 71. REPEAL. Section 14-12.2-47 of the North Dakota Century Code is repealed.

SECTION 72. APPLICATION. This Act applies to a proceeding commenced on or after the effective date to establish a support order or determine parentage or to register, recognize, enforce, or modify a prior order or agreement, whether issued or entered into before, on, or after the effective date.

SECTION 73. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the date the department of human services certifies to the legislative council that the Hague convention on the international recovery of child support and other forms of family maintenance is ratified and that the United States deposited its instrument of ratification.

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