

**SENATE BILL NO. 2115**

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact section 14-08.1-04, subsection 2 of section 14-09-08.1,  
2 subsection 4 of section 14-09-08.4, section 14-09-09.32, subsection 8 of section 14-09-25, and  
3 subsection 6 of section 50-09-08.6 of the North Dakota Century Code, relating to child support;  
4 and to repeal section 14-09-09.37 of the North Dakota Century Code, relating to child support.

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

6 **SECTION 1. AMENDMENT.** Section 14-08.1-04 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **14-08.1-04. Duty of ~~state's attorney~~ child support agency - Sheriff's fees.**

9 ~~Upon request of the county social service board director or the executive director of the~~  
10 ~~department of human services, the state's attorney of any county furnishing public assistance or~~  
11 ~~county general assistance~~ The child support agency shall commence any appropriate action or  
12 proceeding under sections 14-08.1-02 and 14-08.1-03, ~~in which case fees for filing and~~ Except  
13 for public assistance cases as determined by the child support agency, a sheriff may charge  
14 and collect ~~service of process may not be charged or collected~~ fees consistent with section  
15 11-15-07.

16 **SECTION 2. AMENDMENT.** Subsection 2 of section 14-09-08.1 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18 2. a. Each party subject to the order shall immediately inform the state disbursement  
19 unit of the party's:
- 20 (1) Social security number;
  - 21 (2) Residential and mailing addresses and any change of address;
  - 22 (3) Telephone number, including cellular telephone number;
  - 23 (4) Motor vehicle operator's license number;
  - 24 (5) Employer's name, address, and telephone number;

- 1           (6) Electronic mail address; and  
2           ~~(6)~~(7) Change of any other condition which may affect the proper administration of  
3           this chapter.
- 4           b. Each order for payment of child support must notify each party of the  
5           requirements in subdivision a and require the party to provide the information  
6           within ten days from the date of the order or ten days after any change in the  
7           information.
- 8           c. In any subsequent child support enforcement or modification action between the  
9           parties, upon sufficient showing that diligent effort has been made to ascertain  
10          the location of a party, the court shall deem due process requirements for notice  
11          and service to have been met, with respect to the noticed party, by delivery of  
12          written notice to the most recent residential or employer address provided by the  
13          noticed party pursuant to this subsection.
- 14          d. The requirements of this subsection continue in effect until all child support  
15          obligations have been satisfied with respect to each child subject to the order.

16          **SECTION 3. AMENDMENT.** Subsection 4 of section 14-09-08.4 of the North Dakota  
17 Century Code is amended and reenacted as follows:

- 18          4. If a child support ~~order~~obligation sought to be amended was entered at least one year  
19          before the filing of a motion or petition for amendment, the court shall order the  
20          amendment of the child support ~~order~~obligation to conform the amount of child support  
21          payment to that required under the child support guidelines, whether or not the motion  
22          or petition for amendment arises out of a periodic review of a child support  
23          ~~order~~obligation, and whether or not a material change of circumstances has taken  
24          place, unless the presumption that the correct amount of child support would result  
25          from the application of the child support guidelines is rebutted. If a motion or petition  
26          for amendment is filed within one year of the entry of the ~~order~~obligation sought to be  
27          amended, the party seeking amendment must also show a material change of  
28          circumstances.

29          **SECTION 4. AMENDMENT.** Section 14-09-09.32 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **14-09-09.32. Agreements to waive child support.**

2       1. An agreement purporting to relieve an obligor of any current or future duty of child  
3       support is void and may not be enforced. An agreement purporting to waive past-due  
4       child support is void and may not be enforced unless the child support obligee and any  
5       assignee of the obligee have consented to the agreement in writing and the  
6       agreement has been approved by a court of competent jurisdiction. A copy of the order  
7       of approval must be provided to the state disbursement unit. As used in this section,  
8       "child support" does not include spousal support.

9       2. In a judgment for divorce or other relief under this title in any matter in which the child  
10      and both of the child's parents do not reside together, a court shall establish a child  
11      support obligation unless the child support agency requests the issue of child support  
12      be reserved. Notwithstanding subsection 1, the court may issue a stay of any further  
13      accruals under a child support order if the court finds the stay would be in the best  
14      interests of the child. Avoidance of income withholding or the requirement to make any  
15      child support payment through the state disbursement unit is not a proper basis to stay  
16      a child support obligation under this subsection. A child support obligation that is  
17      stayed under this subsection may be reinstated on a prospective basis as provided  
18      under the terms of the stay or at any time by order of the court or upon affidavit of any  
19      party. The party filing the affidavit shall provide a copy of the affidavit to any other party  
20      to the action and to the state disbursement unit.

21      **SECTION 5. AMENDMENT.** Subsection 8 of section 14-09-25 of the North Dakota Century  
22      Code is amended and reenacted as follows:

23      8. The child support agency may suspend or waive judgment interest on an arrearage as  
24      part of an amnesty program, as an incentive for satisfying a child support obligation or  
25      complying with a payment plan, or if the child support agency determines that the  
26      judgment interest is not collectible through commercially reasonable efforts. This  
27      subsection applies to judgment interest accruing before July 1, 2005, only if the  
28      arrearage is assigned to the child support agency under section 50-09-06.1 or  
29      50-24.1-02.1 or if the obligee provides written consent. Any judgment interest that is  
30      suspended or waived under this subsection may be reinstated by ~~a court at any time~~  
31      ~~or~~ by the child support agency if the obligor has failed to comply with a payment plan.

1       **SECTION 6. AMENDMENT.** Subsection 6 of section 50-09-08.6 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3       6. In a contest under this section, the court ~~must~~shall affirm the action of the state  
4 agency to withhold, restrict, or suspend a license unless ~~if~~the court finds that the  
5 licensee's ~~delinquency or failure to comply with a subpoena, or an existing payment~~  
6 ~~plan was not willful. Upon a showing by the state agency that the licensee has failed to~~  
7 ~~comply with a subpoena, is listed on the arrears registry, or is not in compliance with~~  
8 ~~an existing payment plan between the licensee and the state agency under this~~  
9 ~~section, the licensee has the burden of proving that the delinquency or failure to~~  
10 ~~comply was not willful~~state agency's decisions was arbitrary, unreasonable, or  
11 capricious.

12       **SECTION 7. REPEAL.** Section 14-09-09.37 of the North Dakota Century Code is repealed.