Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2053
(Legislative Management)
(Judiciary Committee)

AN ACT to amend and reenact sections 14-12.2-47.1, 14-12.2-47.2, 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, and 14-12.2-47.13, subsection 4 of section 15.1-32-01, section 34-05-01.2, subsection 1 of section 38-18.1-03, subsection 1 of section 43-51-11.1, and sections 54-44.1-18 and 61-24-02 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and to repeal chapter 4-21 and section 11-11.1-05 of the North Dakota Century Code, relating to technical corrections and improper, inaccurate, redundant, missing, or obsolete references.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-12.2-47.1 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.1. (Contingent effective date - See note) (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 the United States or a foreign country described in subdivision d of subsection 5 of section 14-12.2-01 to perform the functions specified in the convention.

3. "Convention support order" means ~~an~~a support order of a tribunal of a foreign country ~~in which the convention is in force with respect to the United States~~described in subdivision d of subsection 5 of section 14-12.2-01.

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~~described in subdivision d of subsection 5 of section 14-12.2-01 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. Means an agreement for support in a record that:

      (1) Is enforceable as a support order in the country of origin;

      (2) Has been:

         (a) Formally drawn up or registered as an authentic instrument by a foreign tribunal; or

         (b) Authenticated by, or concluded, registered, or filed with a foreign tribunal; and

      (3) May be reviewed and modified by a foreign tribunal; and

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~~Includes a maintenance arrangement or authentic instrument under the convention.

7. "United States central authority" means the secretary of the United States department of health and human services.

SECTION 2. AMENDMENT. Section 14-12.2-47.2 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.2. (Contingent effective date - See note) (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~~under 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 3. AMENDMENT. Section 14-12.2-47.4 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.4. (Contingent effective date - See note) (704) Initiation by department of human services of support proceeding ~~subject to~~under convention.

1. In a support proceeding ~~subject to~~under 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 of a child;

   d. Establishment of a support order if recognition of a foreign support order is refused under subdivision b, d, or i of 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.

SECTION 4. AMENDMENT. Section 14-12.2-47.5 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.5. (Contingent effective date - See note) (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 of a child. 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~~A security, bond, or deposit ~~shall be~~is not 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~~a direct request is not entitled to 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 5. AMENDMENT. Section 14-12.2-47.6 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.6. (Contingent effective date - See note) (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, acting on its own motion, 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 6. AMENDMENT. Section 14-12.2-47.7 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.7. (Contingent effective date - See note) (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~~not later than thirty days after notice of the registration ~~unless~~but if the contesting party does not reside in the United States, ~~in which case~~ the contest must be filed ~~within~~not later than sixty days after notice of the registration.

3. If the nonregistering party fails to contest the registered convention support order ~~in a timely manner~~by the time specified in subsection 2, 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~~A challenge or appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

SECTION 7. AMENDMENT. Section 14-12.2-47.8 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.8. (Contingent effective date - See note) (708) ~~Refusal of recognition~~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. Except as otherwise provided in subsection 2, a tribunal of this state shall recognize and enforce a registered convention support order.

2. The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:

   a. 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.~~ b. The issuing tribunal lacked personal jurisdiction consistent with section 14-12.2-04;

~~3.~~ c. The order is not enforceable in the issuing country;

~~4.~~ d. The order was obtained by fraud in connection with a matter of procedure;

~~5.~~ e. A record transmitted in accordance with section 14-12.2-47.6 lacks authenticity or integrity;

~~6.~~ f. 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.~~ g. 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.~~ h. Payment, to the extent alleged arrears have been paid in whole or in part;

~~9.~~ i. 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.~~ (1) Provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

   ~~b.~~ (2) 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.~~ j. The order was made in violation of section 14-12.2-47.11.

3. If a tribunal of this state does not recognize a convention support order under subdivision b, d, or i of subsection 2:

   a. The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new convention support order; and

   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 8. AMENDMENT. Section 14-12.2-47.9 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.9. (Contingent effective date - See note) (709) Partial enforcement ~~- New support order.~~

~~1.~~ If a tribunal of this state ~~may~~does not recognize and enforce ~~the whole of~~ a convention support order in its entirety, 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 9. AMENDMENT. Section 14-12.2-47.10 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.10. (Contingent effective date - See note) (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~~an order of support 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 and enforcement under this chapter 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 or appeal of the agreement before a tribunal of another state or foreign country.

SECTION 10. AMENDMENT. Section 14-12.2-47.11 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.11. (Contingent effective date - See note) (711) Modification of convention child support order ~~subject to convention~~.

1. A tribunal of this state may not modify a convention 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~~does not modify ~~the~~a convention child support order ~~subject to the convention~~ because the order ~~may~~is not ~~be~~ recognized in this state, ~~subdivision a of~~ subsection ~~2~~3 of section ~~14-12.2-47.9~~14-12.2-47.8 applies.

SECTION 11. AMENDMENT. Section 14-12.2-47.13 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.13. (Contingent effective date - See note) (713) Record in original language - 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~~not in English, must be accompanied by an English translation.

SECTION 12. AMENDMENT. Subsection 4 of section 15.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

4. a. "Student with a disability" means an individual who is at least three years of age but who has not reached the age of twenty-one before ~~September~~August first of the year in which the individual turns twenty-one and who requires special education and related services because of:

(1) An intellectual disability;

(2) A hearing impairment, including deafness;

(3) Deaf-blindness;

(4) A speech or language impairment;

(5) A visual impairment, including blindness;

(6) An emotional disturbance;

(7) An orthopedic impairment;

(8) Autism;

(9) A traumatic brain injury;

(10) Other health impairment; or

(11) A specific learning disability.

b. "Student with a disability" includes a student age eighteen through twenty-one who is incarcerated in an adult correctional facility and who, in the last educational placement prior to incarceration, was identified as being a student with a disability and did not have an individualized education program or was identified as being a student with a disability and had an individualized education program.

SECTION 13. AMENDMENT. Section 34-05-01.2 of the North Dakota Century Code is amended and reenacted as follows:

34-05-01.2. Labor commissioner to administer department of labor and human rights.

~~Beginning January 1, 1999, the~~The governor shall appoint a labor commissioner to administer the department of labor and human rights. The labor commissioner shall serve at the pleasure of the governor.

SECTION 14. AMENDMENT. Subsection 1 of section 38-18.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. A mineral interest is deemed to be used when:

   a. There are any minerals produced under that interest.

   b. Operations are being conducted thereon for injection, withdrawal, storage, or disposal of water, gas, or other fluid substances.

   c. In the case of solid minerals, there is production from a common vein or seam by the owners of such mineral interest.

   d. The mineral interest on any tract is subject to a lease, mortgage, assignment, or conveyance of the mineral interest recorded in the office of the recorder in the county in which the mineral interest is located.

   e. The mineral interest on any tract is subject to an order or an agreement to pool or unitize, recorded in the office of the recorder in the county in which the mineral interest is located.

   f. ~~Taxes are paid on the mineral interest by the owner or the owner's agent.~~

   ~~g.~~ A proper statement of claim is recorded as provided by section 38-18.1-04.

SECTION 15. AMENDMENT. Subsection 1 of section 43-51-11.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A board shall adopt rules regarding licensure of a military spouse ~~and~~or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse to practice the occupation or profession in the state if upon application to the board:

   a. The military spouse demonstrates competency in the occupation or profession through methods or standards determined by the board which must include experience in the occupation or profession for at least two of the four years preceding the date of application under this section;

   b. The military spouse pays any fees required by the board from which the applicant is seeking a license; and

   c. The board determines the exception will not substantially increase the risk of harm to the public.

SECTION 16. AMENDMENT. Section 54-44.1-18 of the North Dakota Century Code is amended and reenacted as follows:

54-44.1-18. Searchable database of expenditures.

1. ~~By June 30, 2011, the~~The director of the budget shall develop and make publicly available an aggregate and searchable budget database website that includes the following information for the biennium ~~ending June 30, 2009~~:

   a. Each budget unit making expenditures.

   b. The amount of funds expended.

c. The source of the funds expended.

d. The budget program of the expenditure.

e. Any other information determined relevant by the director of the budget.

2. The director of the budget shall include the name and city of the recipient of each expenditure in the budget database website after the director has completed implementation of a business intelligence component to the state's financial reporting system.

3. The director of the budget may not include in the database any information that is confidential or exempt under state or federal law.

4. The director of the budget may update the budget database website as new data becomes available. Each state agency shall provide to the director of the budget any data required to be included in the budget database website no later than thirty days after the data becomes available to the agency.

5. By January first of each even-numbered year, the director of the budget shall add data for the previous biennium to the budget database website. The director of the budget shall ensure that all data added to the budget database website remains accessible to the public for a minimum of ten years.

6. The budget database website may not redirect users to any other government website, unless the website has information from all budget units and each category of information required can be searched electronically by field in a single search.

7. The governing body of each political subdivision may submit the annual budget adopted by the governing body to the director of the budget. The director of the budget shall include on the office of management and budget website any information submitted by a participating governing body of a political subdivision. The official who submits the annual budget to the director of the budget may not submit any information that is confidential under state or federal law. In lieu of submitting the annual budget adopted by the governing body to the director, any participating governing body may provide to the director a publicly accessible internet link on which the annual budget adopted by the participating governing body is available.

SECTION 17. AMENDMENT. Section 61-24-02 of the North Dakota Century Code is amended and reenacted as follows:

61-24-02. Garrison Diversion Conservancy District created.

The "Garrison Diversion Conservancy District", hereinafter referred to as the "district" consists of that part of the state that is included within the boundaries of the following counties: Barnes, Benson, Bottineau, Burleigh, Cass, Dickey, Eddy, Foster, Grand Forks, Griggs, LaMoure, McHenry, McKenzie, McLean, Nelson, Pierce, Ramsey, Ransom, Renville, Richland, Sargent, Sheridan, Steele, Stutsman, Traill, Ward, ~~and~~ Wells, and Williams.

The district is a governmental agency, body politic and corporate with the authority to exercise the powers specified in this chapter, or which may be reasonably implied.

Any county may join the district upon application of its board of county commissioners and the approval of the application by the board of directors of the district. Such county is authorized to levy taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy is in addition to the amount that may otherwise be legally levied for county purposes.

SECTION 18. REPEAL. Chapter 4-21 and section 11-11.1-05 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2053.

Senate Vote:	Yeas 43	Nays 0	Absent 4
House Vote:	Yeas 91	Nays 0	Absent 3

Secretary of the Senate

Received by the Governor at 8:22 A. M. on March 18, 2015.

Approved at 2:36 P. M. on March 19, 2015.

Governor

Filed in this office this 19th day of March, 2015,

at 4:03 o'clock P. M.

Secretary of State