

# **Department of Human Services**

ND Child Support Enforcement  
Legal Requirements for Employers



## ALL EMPLOYERS TO REPORT ALL NEW HIRES

### What must be reported?

Federal and state laws require that all employers must report the following information for each employee hired on or after October 1, 1997:

Employee's	✓ Name	✓ Address	✓ Social Security Number
Employer's	✓ Name	✓ Address	✓ Federal Tax Identification Number

### How will new hire information be used?

The reported information will be used by the North Dakota Department of Human Services and by other state agencies in order to:

- Increase financial support for children by improved collection of child support.
- Increase collections on defaulted student loans and Department of Education grant overpayments.
- Decrease taxpayer burden.
- Decrease the likelihood of fraud in the unemployment compensation, workers compensation, and welfare programs.
- Verify employment and income of individuals participating in certain federal housing programs.

### Who is an employer?

The definition of "employer" for new hire reporting purposes is the same definition used for federal income tax wage withholding purposes (as defined by section 3401(d) of the Internal Revenue Code of 1986) and includes any governmental entity and any labor organization. As a general rule, if an employer is required to give an employee a W-2 form showing the amount of taxes withheld, the employer must comply with the new hire reporting requirements.

### Who is an employee?

The definition of "employee" for new hire reporting purposes is the same definition used for federal income tax wage withholding purposes (as defined by Chapter 24 of the Internal Revenue Code of 1986). As a general rule, if an employee is given a W-2 form showing the amount of taxes withheld, that employee fits the definition for new hire reporting.

### When is an individual considered a new hire?

An individual is considered a new hire on that individual's first day of work. (The first day in which an individual performs services for pay and the first day in which an employer begins to withhold amounts for income tax purposes.)

### When must an employer report?

The report must be made no later than 20 days after the date the employee is hired. If the report is transmitted electronically, the report may be made by two monthly transmissions. These transmissions, however, must be made not less than 12 nor more than 16 days apart.

## How does an employer report?

Some convenient reporting methods include:

- 1. Internet reporting via a secure and encrypted website.** Go to [www.childsupportnd.com](http://www.childsupportnd.com) “Child Support Online Services” to report individual new hires via a secure and encrypted Internet website.
- 2. Secure and encrypted web file transfer.** A secure and encrypted web-based method to send a file that includes multiple new hires. The record layout for the web file transfer can be found at [www.childsupportnd.com](http://www.childsupportnd.com) “Employer Information” “New Hire Reporting.” Employers must call the Child Support Enforcement program to set up the web file transfer process.
- 3. Payroll service.** Employers using a payroll or accounting service should consider asking the service to report new hires for the employer.
- 4. Printed list.** A printed list with the required information is faxed or mailed.
- 5. New Hire Reporting form.** The Department of Human Services has prepared a form comparable to the W-4 form which employers may submit by fax or mail.
- 6. W-4 form.** After a newly hired employee completes this federal form, the required employer information is completed on lines 8 and 10 and the W-4 is faxed or a copy is mailed.

## What happens if an employer does not report?

The Department of Human Services may issue a written warning to an employer who fails to file a timely, complete, and correct report. Continued noncompliance may result in a civil money penalty of \$20 for each failure to report. If there is conspiracy between the employer and employee not to report, the civil money penalty levied against the employer may be increased to \$250 for each failure to report.

## What if an employer has employees who are employed in more than one state?

Multistate employers who transmit reports using reporting methods 1 or 2 above may elect to report all new hires to a single state in which they have employees. To exercise this option, multistate employers must identify one state for reporting new hires and must notify the Secretary of the United States Department of Health and Human Services of the state chosen. This notification must be submitted either in writing or via the federal Office of Child Support Enforcement website (<http://151.196.108.21/ocse/>).

## Where does an employer send new hire information? Who does an employer call if he or she has questions regarding new hire reporting?

Child Support Enforcement  
Department of Human Services  
PO Box 7369  
Bismarck, ND 58507-7369

Fax: (701) 328-5497  
E-mail: [sohire@nd.gov](mailto:sohire@nd.gov)  
Telephone: (701) 328-3582  
Toll free in ND: 1-800-755-8530  
For TTY service: 1-800-366-6888

For Internet reporting, go to [www.childsupportnd.com](http://www.childsupportnd.com)  
(Click on “Child Support Online Services”)

## North Dakota Department of Human Services

### NORTH DAKOTA CHILD SUPPORT ENFORCEMENT LEGAL REQUIREMENTS FOR EMPLOYERS

On behalf of the children we serve, thank you for the vital role you play in the Child Support Enforcement program. By withholding child support payments from employees' paychecks and enrolling children in their parents' health insurance plans, you help ensure the financial security of children and families.

Below are some of the legal requirements for employers related to the North Dakota Child Support Enforcement (ND CSE) program.

**Income Withholding:** Income withholding by employers is the most effective method for collecting child support. Income withholding is governed by federal and state laws and is a process through which payments for support are withheld each pay period from the income of an employee. "Support" includes payments for child support, medical support, and spousal support.

You will be notified to begin withholding via an Order/Notice to Withhold Income for Child Support (hereafter referred to as an "income withholding order"). You are not required to vary your pay cycle to be in compliance with an income withholding order. Withheld payments must be submitted to the entity designated on the income withholding order. If you wish to submit income withholding payments electronically, please contact the ND CSE program for further information. Also, if you are interested in receiving an electronic income withholding order instead of a paper copy, please let us know.

Each income withholding order provides specific information regarding your legal requirements as an employer. Following are some of your requirements applicable to employees whose principal place of employment is North Dakota:

- Start withholding no later than the first pay period after receipt of the income withholding order.
- Provide a case identifier for each payment remitted. The case identifier can be found on the income withholding order.
- To cover expenses involved in transmitting the payment, withhold and retain an additional fee of \$3.00 per month from the employee's income.
- Withhold no more than 50% of the employee's disposable income, including the employer's fee. Payment of less than the ordered amount must be accompanied by a written payroll calculation.
- Send the income withholding payment within 7 business days of the paydate/date of withholding. An employer who fails to deliver income for more than 7 business days after the date one or more employees are paid may be charged a late fee equal to \$25 per employee for each additional business day the payment is delinquent or \$75 for each additional business day the payment is delinquent, whichever is greater.
- Notify the issuing entity, in writing, of the employee's termination of employment within 7 business days of the termination.
- Failure to comply with these requirements may subject you to penalties, late fees, or sanctions.

**National Medical Support Notice:** Child Support Enforcement programs send a two-part National Medical Support Notice (NMSN) directly to employers of noncustodial parents who are ordered to provide health insurance coverage for their children. The goal is enrollment of children in their parent's employment-related health insurance programs if an employer offers dependent health coverage and the parent qualifies for the program.

The standardized NMSN is intended to simplify and streamline the process of enrolling children in their parents' employment-related health insurance coverage. Each NMSN should be carefully reviewed because it will provide you with specific information regarding your legal requirements as an employer. Both you and the insurer/plan administrator have requirements regarding how and when you must respond to an NMSN. An NMSN is often sent in conjunction with an income withholding order. If you are interested in receiving an electronic NMSN instead of a paper copy, please let us know.

**Request for Information:** State law requires you to respond to a Request for Information issued by the ND CSE program within 10 days after receipt of the request. You must complete and return the Request for Information if the individual is, or within 180 days immediately preceding receipt of the request was, your employee.

**Lump Sum Reporting:** You must notify the ND CSE program before making any lump sum payment of \$1,000 or more to an employee if you have received an income withholding order from the ND CSE program that includes an amount for past-due support. ("Lump sum payment" includes pay in lieu of vacation or other leave, bonus, commission, and any other payment to an employee but excludes periodic payments made on regular paydays as compensation for services and excludes reimbursement for expenses incurred by the employee on behalf of the employer. Also excluded are severance pay and advances.)

**New Hire Reporting:** You are to report to us each employee hired on or after October 1, 1997. For employees working in North Dakota, you must report the following to the ND CSE program within 20 days of the date of hire:

- Employee's Name, Address, and Social Security Number
- Employer's Name, Address, and Federal Tax Identification Number

You may report new hires in a number of ways, including the internet, web file transfer, mail, or fax. Please contact the ND CSE program for information on how to handle your reports as easily as possible.

Multi-state employers (those with employees in two or more states) may choose to report all their new hires to one state. If you are a multi-state employer who would like exercise this option, please contact the ND CSE program for details.

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If you have questions regarding your Child Support Enforcement related legal requirements, please contact the ND CSE program or visit our website at [www.childsupportnd.com](http://www.childsupportnd.com). This website has a complete listing of contact information. If you have questions regarding a particular form or letter, please call the telephone number listed on that document because that office will have first-hand knowledge of what is needed.

**North Dakota Child Support Enforcement**  
**701-328-3582 (local)**  
**800-755-8530 (instate toll free) or 800-231-4255 (nationwide toll free)**  
**800-366-6888 (TTY)**

North Dakota Department of Human Services

**NORTH DAKOTA CHILD SUPPORT ENFORCEMENT  
LEGAL REQUIREMENTS FOR INCOME PAYERS  
LUMP SUM REPORTING**

**What lump sums must be reported?**

An income payer must notify the North Dakota Child Support Enforcement (ND CSE) program before making any lump sum payment to an obligor if:

- the lump sum to be paid to an obligor is \$1,000 or more and
- the income payer has received an income withholding order from ND CSE that includes an amount for past-due support.

**What is a lump sum?**

Lump sum payments include:

- pay in lieu of vacation or other leave and
- bonuses, commissions, and any other payments to an obligor.

Lump sum payments do not include:

- periodic payments made on regular paydays as compensation for services,
- reimbursement for expenses incurred by the obligor on behalf of the income payer,
- severance pay, or
- advances.

**How will the information about lump sums be used?**

To satisfy a child support obligation of the obligor, ND CSE may initiate a deduction order, execution, garnishment, attachment, or other legal process regarding the lump sum payment.

**When can the income payer release the lump sum to the obligor?**

The income payer cannot release any portion of a lump sum payment that must be paid to satisfy an income withholding order issued by ND CSE.

**First one-half of the lump sum**

An income payer who reports a lump sum payment to ND CSE may initially release no more than one-half of the payment to the obligor.

**Second one-half of the lump sum**

The income payer may not release the second one-half of the payment to the obligor until whichever of the following happens first:

- thirty days have passed since the income payer notified ND CSE about the lump sum or
- ND CSE gives the income payer written authorization to pay the obligor the second one-half of the payment.

NOTE: The income payer may not release the second one-half of the payment to the obligor if ND CSE has notified the income payer that a deduction order, execution, garnishment, attachment, or other legal process has been initiated.

**Who is an income payer?**

An income payer is any person, partnership, firm, corporation, limited liability company, association, political subdivision, or department or agency of the state or federal government owing income to an obligor and includes an obligor if the obligor is self-employed.

**Who is an obligor?**

An obligor is any person owing a duty of support.

**Why can I release some lump sum payments, but not others?**

In some child support cases, the only enforcement action taken by ND CSE is to issue the income withholding order. In other cases, ND CSE provides a higher level of enforcement activities, which can include taking a portion of the lump sum payment (beyond what is needed to comply with the income withholding order) to satisfy the arrearage. When ND CSE is notified of a lump sum payment, we determine at that point whether further enforcement is appropriate.

**If ND CSE authorizes me to release a lump sum payment, why do I need to keep reporting future payments to the same obligor?**

The obligor or the family entitled to support can ask for a higher level of enforcement at any time. Thus, even if the case is currently being enforced through income withholding only, additional enforcement activity may be appropriate when the next lump sum payment is made.

**Does state law require income payers to report lump sums to ND CSE?**

Yes. Refer to North Dakota Century Code §14-09-09.34.

**What happens if an income payer does not report a lump sum?**

Failure to comply with these requirements may subject an income payer to contempt of court, attorney's fees, and late fees.

**How does an income payer report a lump sum? Who does an income payer contact with questions regarding lump sum reporting?**

An income payer may report the lump sum or direct questions to the local CSE office that issued the income withholding order or to the ND CSE program. The ND CSE website [www.childsupportnd.com](http://www.childsupportnd.com) provides a complete listing of contact information.

**North Dakota Child Support Enforcement**

**PO Box 7190  
Bismarck, ND 58507-7190**

**Email: [sohire@nd.gov](mailto:sohire@nd.gov)**

**Note: This is not a secure website**

<b>Fax:</b>	<b>701-328-6575</b>
<b>Telephone:</b>	<b>701-328-3582 (local)</b>
<b>Toll free in ND:</b>	<b>800-755-8530</b>
<b>Toll free nationwide:</b>	<b>800-231-4255</b>
<b>TTY:</b>	<b>800-366-6888</b>



**NEW HIRE REPORTING FORM**  
 ND DEPARTMENT OF HUMAN SERVICES  
 CHILD SUPPORT ENFORCEMENT  
 SFN 1018 (Rev. 11-2003)

Date: \_\_\_\_\_

Mail To:  
 Child Support Enforcement  
 ND Department of Human Services  
 PO Box 7369  
 Bismarck, ND 58507-7369

OR

Fax To:  
 Child Support Enforcement  
 ND Department of Human Services  
 Fax #: (701) 328-5497  
 Total Pages Faxed: \_\_\_\_\_

**Part 1: Employer Information** (please print or type)

Employer Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Federal Employer Identification Number: \_\_\_\_\_

For SDNH office use only.

**Part 2: Employee Information** (please print or type)

	Employee Name	Employee Address	Employee Social Security Number	Employee Date of Birth (optional)	Employee Date of Hire (optional)
1					
2					
3					
4					
5					

(Use continuation sheet to report additional new hires.)

Employer Representative: \_\_\_\_\_ Telephone: \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETING THE NEW HIRE REPORT

Federal and state laws require that all employers must report employees hired on or after October 1, 1997.

Step 1: Enter the date you will be mailing or faxing the form. If faxing, also enter the number of pages.

### Under Part 1 . . .

Step 2: (REQUIRED) Enter the employer's name.

Step 3: (REQUIRED) Enter the employer's address. Be sure the address is complete, including street address or PO Box, and city, state, and zip code.

Step 4: (REQUIRED) Enter the Federal Employer Identification Number. This is also referred to as an EIN, FEIN, or Federal tax identification number. This is the same number as Box 10 of the W-4 form.

### Under Part 2, for each newly hired employee . . .

Step 5: (REQUIRED) Enter the employee's name.

Step 6: (REQUIRED) Enter the employee's address. Be sure the address is complete, including street address or PO Box, and city, state, and zip code.

Step 7: (REQUIRED) Enter the employee's social security number.

Step 8: (OPTIONAL) Enter the employee's date of birth.

Step 9: (OPTIONAL) Enter the employee's date of hire. The date of hire is the employee's first day of work.

**After steps 1 - 7, or 1 - 9 (at employer option), enter the name and telephone number of the employer representative and send the completed form to the address or fax number on the top of the form. If faxing the form, do not also mail it. Please be sure the correct side of the form is faxed.**

### How do I know if I am an employer who needs to report new hires?

The definition of "employer" for new hire reporting purposes is the same definition used for federal income tax wage withholding purposes (as defined by section 3401(d) of the Internal Revenue Code of 1986) and includes any governmental entity and any labor organization. As a general rule, if an employer is required to give an employee a W-2 form showing the amount of taxes withheld, the employer must comply with the new hire reporting requirements.

### How do I know if the person I just hired needs to be reported?

The definition of "employee" for new hire reporting purposes is the same definition used for federal income tax wage withholding purposes (as defined by Chapter 24 of the Internal Revenue Code of 1986). As a general rule, if an employee is given a W-2 form showing the amount of taxes withheld, that employee fits the definition for new hire reporting.

### When must I report?

The report must be made no later than 20 days after the employee's date of hire.

If you have any questions, please contact:

Child Support Enforcement  
ND Department of Human Services  
PO Box 7369  
Bismarck, ND 58507-7369

Telephone: (701) 328-3582  
Toll free in ND: 1-800-755-8530  
For TTY service: 1-800-366-6888

IF YOU WOULD LIKE TO RECEIVE THIS FORM IN AN ALTERNATE FORMAT (SUCH AS LARGE PRINT OR BRAILLE). PLEASE CALL THE ABOVE NUMBER TO MAKE ARRANGEMENTS.

*Your cooperation helps our nation's children — Thank You!*

