

AN ACT

ENTITLED, An Act to provide for the imposition of a late payment fee for certain chronically delinquent child support obligations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as follows:

For the purposes of section 2 of this Act, the term, chronically delinquent, means the child support is paid ten or more days after the date the child support is due in each of three or more months in any twelve-month consecutive period, or the child support paid is less than ninety percent of the amount due in each of three or more months in any twelve-month consecutive period.

Section 2. That chapter 25-7 be amended by adding thereto a NEW SECTION to read as follows:

An obligor found to be chronically delinquent in child support payments or installments as required under an order for support, as defined in § 25-7A-1, is subject to a late payment fee equal to ten percent of the ordered child support or fifty dollars, whichever is greater, for each month in the preceding twelve months that the payment was ten or more days delinquent or the payment was less than ninety percent of the ordered child support. Any obligee seeking the late payment fee shall file in the office of the clerk of courts of the county in which the order was filed, or in a county in which a transcript of the order is filed and docketed, a petition showing the date of receipt of each month of delinquent payment, the amount received, and the amount due and requesting that a late fee be ordered. Upon filing of the petition, the obligee shall serve, by certified mail or as otherwise provided by law, a copy of the petition to the obligor. The service of such notice shall be deemed complete when proof of the service is filed with the court. The obligor has ten days from service to object to the imposition of a late fee. If a party objects within ten days of service the court shall conduct a hearing as soon as practical. The obligor has the burden of showing an inability to timely pay child support payments or installments as required under an order of support. Based upon the

evidence presented at the hearing, the court may order the obligor to pay a late fee or may order any other relief as it deems appropriate.

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I certify that the attached Act
originated in the

SENATE as Bill No. 186

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 186
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State