

11

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2129

2007 SENATE JUDICIARY

SB 2129

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: "Click here to type Hearing Date" 1-10-07

Recorder Job Number: 903

Committee Clerk Signature

Maria L Solberg

Minutes: Relating to child support enforcement.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Mike Schwindt, Dir of Child Support Enforcement Div. Dept. of Human Services (meter 0:01)

Introduced and reviewed the bill. Att. #1.

Sen. Nelson stated (meter 4:42) why do we have a mandate to pay the first \$25 fee to the federal government.

Mr. Schwindt stated in Section 16 Federal Government puts a greater emphasis on Medical support. Currently we have the authority to obtain information from Health insurers to clarify that all health insurers are expected to participate in the program-referring to amendment.

Sen Fiebiger referred to sec. 16-19, Collecting from the step parent regarding to insurance if it was of no or nominal costs. I am not sure if I see that language in the Statutory Language?

Mr. Schwindt responded that it is in section 14-09-08.10 of century code and it should be sufficient.

Sen. Nelson questioned if in page 8, line 13 (meter 21:43) is that a miss-spelling "fnsurer"?

Yes. It should be an "Insurer"

Sen. Fiebiger question section 9 referring to title and “obligor” vs. “oblige” is that correct.

Isn't the original proposal that you are charging the “oblige”, Yes, replied Mr. Schwindt perhaps the title of that section is wrong.

Sen. Fiebiger (meter 22:41) question the last sentence “upon order of a court for the amount of the fee paid by the oblige may be collected from the obligor as past due support”, while I understand the dilemma that you are in to try and figure out how to best do this. My question with my experience, is to try to avoid going back to court. Will this necessitate the oblige to go back to court and say, “how are we going to get this \$25” or are they going to say “forget it, it is not worth it”. My concern is this going to cause more court involvement with that last provision. He referred title refers to this section. Yes this would involve another court order, unless it is stated in the original general court order. **Sen. Fiebiger** sited his concern to make the oblige go back into court to have to take more action. Is this not a concern?

Testimony in Opposition of the Bill:

Susan Beehler, Mandan, ND resident and mother of a blended family (meter 24:51) Sited her “blended family” and its history. Was o.k. with page 2, sec. 3 but had concerns if a child had an insurance policy (to pay for the funeral) and the child died, under this who would receive the benefits? Bottom of pg. 3 and top of 4, the money should follow the child. Sited a foster care situation-while a mother was in rehab. Sec. 10 page 5 “legal Custodian” term does not include temporary custody? In Sec 9, why not split the fee between parents. Page 7 – current records are not accurate. Sec. 14-Monification took 3 months and by the time it was in the system we were in rears and were paying a penalty. We tried to pay it and it was returned by the time it was updated we were then charged a penalty. Timeliness issues.

Testimony Neutral to the Bill:

Rob St. Aubyn, Blue Cross, Blue Shield (meter 39:23) gave testimony – Att. #2a and proposed amendment #2b. Sited his concern this will have with the HIPPA requirements. We have working with South Dakota to implement a cheaper more effective program ANC and HIPPA Standard eligibility inquiry transactions 270 initiate by the department and the response back is a 271 code. This would satisfy your HIPPA issues. Our amendment in SB 2131 we have worked with the department in the same sort of data sharing issues. We are also concerned with the liability issues and the amendment would release us from our liability. Questioned if this bill needs an emergency clause.

Senator David Nething, Chairman closed the hearing.

See Att #3

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1289

Committee Clerk Signature

Mona L. Solberg

Minutes: Relating to child support enforcement.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Fiegiger opened with a review of the amendment – Att. #1

Sen. Fiebiger made the motion to do pass Amend Att. #1 and **Sen. Olafson** seconded the motion. All members were in favor and motion passes.

Sen. Fiebiger made the motion to Do Pass as Amended SB 2129 and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Fiebiger**

Sen. Lyson made the motion to Do Pass and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

Senator David Nething, Chairman closed the hearing.

FISCAL NOTE
Requested by Legislative Council
03/15/2007

Amendment to: Engrossed
 SB 2129

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$654,188		\$872,250
Expenditures			\$127,550	\$247,598		
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill relates to child support enforcement. Section 5 allows for the enforcement of medical support obligations against custodial parents. Section 9 allows DHS to comply with federal regulations requiring fees on IV-D and non IV-D cases.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 5 of the bill will enhance child support collections. The amount of the increased collections is undeterminable.

Section 9 of the bill will generate revenues from the fees collected. The fees for the IV-D cases that have never been on assistance are based on federal regulations requiring \$25 per year after collecting \$500 on the case. The fees for nonIV-D cases assume a \$10 per month fee in months where collections are made. Expenses to implement the fees are a result of programming costs for modifications to the Child Support system.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The fees would start on January 1, 2008. Therefore, the 2007-09 biennium reflects 18 months of fee revenues. For the 2007-09 biennium the fees will generate total revenues of \$1,054,395 of which, \$654,188 will be departmental revenues and \$400,207 would be reimbursed to the federal government. For the 2009-11 biennium the fees will generate total revenues of \$1,405,860 of which, \$872,250 will be departmental revenues and \$533,610 would be reimbursed to the federal government.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The department will incur programming costs of \$375,148 to implement the fee collections. The expense would require \$127,550 from the general fund and \$247,598 from federal funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

The executive budget recommendation includes appropriation authority for child support system changes required by the federal government. This is one of those changes.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	03/15/2007

FISCAL NOTE
 Requested by Legislative Council
 01/26/2007

Amendment to: SB 2129

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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The executive budget recommendation includes appropriation authority for child support system changes required by the federal government. This is one of those changes.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	01/26/2007

FISCAL NOTE

Requested by Legislative Council

01/02/2007

Bill/Resolution No.: SB 2129

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continuing appropriation.

The executive budget recommendation includes appropriation authority for child support system changes required by the federal government. This is one of those changes.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	01/08/2007

REPORT OF STANDING COMMITTEE

SB 2129: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the Sixth order on the calendar.

Page 1, line 3, remove the first "and"

Page 1, line 8, after "enforcement" insert "; and to declare an emergency"

Page 5, line 9, remove "- Recovery from obligor"

Page 8, line 13, replace "fnsurer" with "insurer"

Page 8, line 14, replace "data" with "information" and replace "public authority" with "state agency"

Page 8, line 15, after the underscored period insert "An insurer shall provide the health insurance information required in this section to the state agency or its agent not more frequently than twelve times in a year. The insurer shall provide the information required in this section at no cost if the information is in a readily available structure or format. If the state agency requests the information in a structure or format that is not readily available, the insurer may charge a reasonable fee for providing the information, not to exceed the actual cost of providing the information. The state agency and its agents may not use or disclose any information provided by the insurer under this section except to establish or enforce a child support or medical support obligation, or as otherwise permitted or required by law. An insurer may not be held liable for the release of health insurance information to the state agency or its agents under this section."

SECTION 17. EMERGENCY. Section 16 of this Act is declared to be an emergency measure."

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2129

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: February 2, 2007

Recorder Job Number: 2683

Committee Clerk Signature



Minutes:

Senator Holmberg opened the hearing on Engrossed SB 2129 relating to child support enforcement; and to declare an emergency. He said that there is discussion on putting on an amendment for a sunset.

Mike Schwindt, Director of the Child Support Enforcement Division of the Department of Human Services testified in support of SB 2129. This bill covers many aspects of the Child Support Enforcement (CSE) program.

- It responds to the federal Deficit Reduction Act of 2005, which places a greater emphasis on enforcement of medical support and also requires us to impose a \$25 per year fee in certain cases;
- The bill refines some of our collection tools so our efforts can be more effective and responsive to the needs of both parents; and
- The bill proposes some changes regarding our operation of the State Disbursement Unit (SDU) and the records maintained on our computer system.

He recapped the sections of the bill and this can be found in his written testimony.

Section 1 was put in to clarify the law. A local prosecutor has suggested the law be clarified to indicate that this general rule applies in criminal prosecutions.

Section 2 requires people to give us their personal information and defines "immediately" being 10 days just like your drivers license.

Section 3 under the proposed amendment, the support obligation would resume when the affidavit is received, but the obligor would not owe any arrears due to the custodial parent's delay in providing the affidavit.

Section 4 clarifies this section in response to an argument recently raised by an obligor who tried to avoid paying child support by assigning the right to receive estate property to a sibling.

Section 5 says the proposed new section would allow CSE to enforce this obligation against custodial parents using the National Medical Support Notice.

Section 6 said under the proposed amendment, any coverage available at no or nominal cost to the stepparent would be considered coverage available to the custodial parent. This change would allow CSE to enforce the existing duty of the custodial parent to enroll the children in available coverage, when necessary, rather than require the obligor to provide coverage.

Section 7 the amendment would allow the Department to intercept the arrears payment and apply it on the parent's behalf to the parent's other obligations. #2 examples.

Senator Fischer said in section 6, what is nominal cost? Is it the difference between the single policy and a family policy which can be up to \$500 /month? Would that be considered at nominal cost?

Mike said no nominal cost is in the century code but an example would be a state employee tax community the employer pays all the insurance. He is not aware of anything in the law that says nominal is a certain number.

Senator Fischer asked who can make that call.

Jim Flemming said that nominal is not the numbers that you mentioned. Nominal is a number that is low enough so the obligee wouldn't miss it. It is a low amount...5 or 10 bucks. Nominal means nominal. The upgrade is not nominal.

Mike Schwindt

Section 8 would give CSE the authority to issue an administrative order offsetting arrears owed by two parents to each other, as long as neither parent objects.

Section 9 unless federal law is changed, the anticipated deadline for imposing this fee is October 1, 2007. This gives 4 options, the options are listed in his testimony on page 5. They request legislative direction on the appropriate option for collecting the fee. Please see written testimony for information on section 9.

Section 10 said that the proposed amendment would authorize the payee to be changed as an administrative matter as long as none of the parties object.

Section 11 maintains official payment records of all child support obligations in ND.

Section 12 clarifies the existing authority of the CSE program to obtain information from public utilities including cellular and wireless telephone companies.

Section 13 change is made to comply with changes in the federal law under DRA. The federal law was changed to encourage states to use automated administrative enforcement processes.

Section 14 amends a provision inadvertently omitted from legislation enacted last session to create the arrears registry, which includes all obligors who owe arrears greater than two times the current or most recent monthly support obligation or \$2000, whichever is less.

Section 15 change would confirm or authority to remove from the list any obligor who is deceased, who no longer owes any child support, or whose obligation is being enforced in another jurisdiction and we are unsure whether or not the child support has been paid.

Section 16 is for medical enforcement.

Mr. Schwindt explained the fiscal note. The cost of \$375,000 would be cost for fixing their computer system and the revenues would be fees generated.

Senator Wardner said on section 15 he asked if people are paid off, why wouldn't you just take there name off the list? Why do you need a law to tell you to do that?

Mike answered if the law says put them on, there is nothing in the law that gives us authority to take them off.

Senator Holmberg closed the hearing on SB 2129 and said the sub committee will look at this and report back.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2129

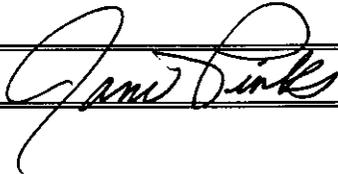
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 02-09-07

Recorder Job Number: 3272

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2129.

Senator Fischer indicated this provides for a stipulation indicating those people who are deceased and still being carried on the books as owing child support will be put in a separate category. The bill is responding to federal changes.

Senator Mathern moved a DO PASS, **Senator Krauter** seconded. There was additional discussion. A roll call vote was taken resulting in 13 yes, 0 no, 1 absent. The motion carried and **Senator Fiebiger** will carry the bill.

Chairman Holmberg closed the hearing on SB 2129.

Date: 2/9/07
Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2129

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Mather Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mather	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson		
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Filmer jud

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 9, 2007 1:29 p.m.

Module No: SR-28-2756
Carrier: Flebiger
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2129, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed SB 2129 was placed on the Eleventh order on the calendar.

2007 HOUSE HUMAN SERVICES

SB 2129

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

House Human Services Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: 4086 & 4088

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: We will open the hearing on SB 2129.

James Fleming, Deputy Director and General Council to the Child Support Enforcement

Division: There is quite a bit in this bill. See attached Introduction to child support, and in the back you have some contact people should you need more information. I also have child support collection tools. The third hand out is a chart that gives you an idea on what we know today about the distribution of debtors and arrears. There is a lot we would like to learn in addition to what we have. We had a similar hand out in last session when talking about the arrears register. We will be talking about 4D a lot. When we talk about a 4D case, we are talking about a case that is eligible for federal match. That is 66% federal, 34% state. A child support case can become 4D in various ways. The 1st way is if the family applied for public assistance. The families with Medicaid or foster care are examples. If you go on a system with those programs they assign the right to support for the state. The second way it could become 4D is either parent applies for services. The state does some things with non 4D cases, but most of the tools on the hand out are not used by child support in non 4D cases. In most cases the payment has to come through us, and they have to comply with the child support guidelines. We also send alerts to the clerks of court when there is a delinquency so

they can have contempt hearings. Those in the nut shell the extent of enforcement by public agencies for the non 4D cases. The 4D cases applied for our services. The most problematic thing is we locate the people, their income and their other assets. We establish paternity when necessary. We establish a child support order if one is needed. We also establish court order for medical support. If there already is a support obligation, we enforce that. We receive and distribute child support payments. We are working to implement arrears registry, and the feds are working with us. The bar chart included shows people who are way behind and who is not. You will never hear Child Support people call their obligor a dead beat. There are many reasons why people just can't make their payments. That is not a label we use. There are many ladies as well as gentlemen who are obligors. We need to clean up medical support.

Representative Kaldor: On these arrears, do you also do the aging, like 30, 60, 90 etc. days? So much of this is beyond collectibles because it is old.

Mr. Fleming: We do not do that right now. We would look at years not days. If you have an obligor that is particularly good at running, we will get them at retirement. At some point they will want to collect Social Security. When the registry is finished we will be able to find bank accounts and assets. See attached testimony and what the bill covers.

Chairman Price: When child doesn't turn 18 until June, but graduates in May, when do they stop paying? Does the court know if the child doesn't graduate until they are 19?

Mr. Fleming: There are times by court order it is extended. You would need to look at the court order for guidance for this.

Representative Kaldo: I need clarification on affidavit process is purely the custodial parent's responsibility?

Mr. Fleming: That is correct.

What about if the step parent does not put the child on in the allowed time of the insurance plan and there is nothing required for the insurance to take them if they don't qualify is there?

Mr. Fleming: this doesn't mandate the insurance company, but it does give us the power to enforce the duty of the step parent to get them enrolled.

Representative Weisz: A court order would still be out there even if you change it administratively.

Mr. Fleming: That is what we are facing today. It would require a court order. By authorization from the law that court order can be changed. This now would change that order.

Representative Hatlestad: Is there a reason you couldn't tie all court orders so the money follows the child, and than you wouldn't have this problem.

Mr. Fleming: We could. It would take a similar law change. The child could just be visiting for a couple weeks, or is it a custody change.

Representative Porter: Was there any discussion about health insurance and some of the issues with health insurance. In the case where the child turns 18 goes to college there is a cost to the parent to maintain them on their health insurance, but there is no credit given for that payment even though they are still in college, and there are expenses both parents are sharing. What was that discussion?

Mr. Fleming: We put that on the table for discussion. If it is in the body of this committee to decide the policy matter credit should be given. (Could not understand it all)

Representative Porter: Another situation with underemployed and unemployed change this into the bill to fix some of those open ended areas.

Mr. Fleming: Yes, not in this bill but (could not understand)

Representative Porter: the part that catches me is that they can look, but there isn't there isn't anything that says they have to take the average of the three or break it down by percentage to make it fair. We are still leaving it in the hands of the court, and that doesn't necessarily make it the fairest look.

Mr. Fleming: We understand your point. If that is something the committee wanted to be a part of. We need to work with both.

Rod St Aubyn, with BC/BS of ND: We approve of the language as written. The original was quite vague.

Vice Chair Pietsch: Anyone else in favor of SB 2129? Any opposition, if not we will close the hearing on SB 2129.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4857

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Weisz: Calls the sub committee meeting to order, with **Representative Schneider, and Representative Porter** present.

Mike Schwindt with Child Support Enforcement Director with Department of Human Services: Goes through criteria for rebuttal of guidelines, and deviation from the guideline amount of child support. The last page it shows what would happen with income shares. I think we can do this with out any amendments. See attached documents.

Representative Weisz: When we adopt the amendments they would have to be aware of what is being done.

Representative Porter makes a motion to adopt at this level. **Representative Schneider** seconds the motion. The verbal vote was unanimous.

Representative Weisz: We will close the meeting on SB 2129.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4935 (beginning at 25:05 on tape)

Committee Clerk Signature

Jurey B. Alvested

Minutes:

Chairman Price asked the committee to consider SB 2129.

Representative Weisz reported for the sub committee. He said the suggested amendment that he explained deals with the income shares model as to what payment should be. It says that if the obliges income is at least three times higher than the net income of the obligor that would then kick in the deviation from the guideline.

Chairman Price asked how many states do income shares.

Representative Weisz said he didn't know if he had a list of every state that does this but there were at least 10 on the list that do either the regular share income model or the Nelson or modified Nelson model that takes into account the obliges income. Virginia was the only state that could look up in the data base and tell you how many would qualify. The perception is out there that this is a huge problem, but it is rare that the obligee has any substantial income. This does not require programming changes to the department but child support enforcement will have a sheet that they will be sending out to every obligor and obligee.

Representative Conrad asked if there was a rational for the three times the income number.

Representative Weisz said it was his number and it was based on the fact that if you had similar incomes why would you deviate and so that number became substantial enough. It is

not based on other states. We thought that made the spread enough so that you should look at it.

Representative Conrad asked if it factored in the number of children.

Representative Weisz said that would be reflected in the deviation from the guidelines.

Chairman Price asked if everyone was familiar with this since they may have missed one of the hearings. She said the experts from child support were in the audience so this would be the time for any questions. This is one of the things that came up with the group. She said that she had found it was a lot of work for very little difference based on what they have taken a look at. One of the attorneys who had testified against income shares had told her that she was opposed to this because it is based on perception. They are going to find it is not going to make a great deal of difference but people are never going to get over the idea that it isn't going to make a difference until we try it.

Representative Conrad said that three times is a lot.

Representative Weisz said that obviously that number can be changed but he said he would not want to lower it a lot more than that because you should have a fair amount of income differential before you start to look at it.

Chairman Price asked how he felt about the amendment.

Representative Weisz moved to accept the amendment.

Representative Schneider seconded the motion.

Chairman Price asked if any of the parties involved would like to make any comments on this.

Mr. Jim Flemming from the Department of Human Services said for income shares to make a difference you really have to have a big disparity in income otherwise it is not likely to be a very big difference in number and a lot of effort in the process. I would like to clarify something that was incorrect in his testimony on this bill. His testimony indicated that the fee revenue would

go to the state general fund. Your fiscal note is correct and would have that as income to the department and not to the general fund. He just wanted to correct his testimony.

Chairman Price asked for further discussion. Hearing note, a voice vote was taken. The motion prevailed.

Representative Weisz made a motion for a **do pass as amended with referral to appropriations on SB 2129.**

Representative Porter seconded the motion.

Chairman Price asked for further discussion. Hearing none, she asked the clerk to call the roll on a do pass as amended with referral to appropriations on SB 2129. Let the record show 12 yes, 0 no with all present.

Representative Weisz will carry this bill to the floor.

Date: 3/10/12
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2129 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken move to adopt

Motion Made By Rep. Potter Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglen					
Robin Weisz					

Total (Yes) 3 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/2
 Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2129 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Let Pass as Amended R/Agst

Motion Made By Rep. Weisz Seconded By Rep. Porter

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman	<input checked="" type="checkbox"/>		Kari L Conrad	<input checked="" type="checkbox"/>	
Vonnie Pietsch - Vice Chairman	<input checked="" type="checkbox"/>		Lee Kaldor	<input checked="" type="checkbox"/>	
Chuck Damschen	<input checked="" type="checkbox"/>		Louise Potter	<input checked="" type="checkbox"/>	
Patrick R. Hatlestad	<input checked="" type="checkbox"/>		Jasper Schneider	<input checked="" type="checkbox"/>	
Curt Hofstad	<input checked="" type="checkbox"/>				
Todd Porter	<input checked="" type="checkbox"/>				
Gerry Uglem	<input checked="" type="checkbox"/>				
Robin Weisz	<input checked="" type="checkbox"/>				

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2129, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2129 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first comma insert "a new subdivision to subsection 1 of section 14-09-09.7"

Page 3, after line 25, insert:

"SECTION 7. A new subdivision to subsection 1 of section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

Authorize a rebuttal of the presumption provided in subsection 3 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."

Page 8, line 26, replace "16" with "17"

Renumber accordingly

2007 HOUSE APPROPRIATIONS

SB 2129

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2129

House Appropriations Committee
Human Resources Division

Check here for Conference Committee

Hearing Date: March 23, 2007 - Time: am

Recorder Job Number: 5511

Committee Clerk Signature

Minutes:

Rep. Chet Pollert, Chairman reopened the hearing on **SB 2129**, A Bill for an Act to create and enact subsection 7 to section 12.1-37-01, sections 14-09-08.22 and 14-09-09.36, subsection 10 to section 14-09-25, and section 50-09-37 of the North Dakota Century Code, relating to child support enforcement; and to amend and reenact subsection 2 of section 14-09-08.1, subsection 3 of section 14-09-08.2, sections 14-09-08-17, 14-09-09, 14-09-09.31, and 14-09-09.33, subsection 2 of section 50-09-02.1, paragraph 2 of subdivision g of subsection 1 of section 50-09-08.2, section 50-09-08.3, subsection 6 of section 50-09-08.6, and subsection 4 of section 50-09-32 of the North Dakota Century Code, relating to child support enforcement.

Present: Vice Chairman Larry Bellew, Representatives James Kerzman, Ralph Metcalf, Mary Ekstrom, Jon Nelson, Gary Kreidt, and Alon Wieland.

The Cavalier High School Students were acknowledged.

Chairman Pollert called for amendments on **SB 2129**. This bill resulted as a Federal mandate from the Deficit Reduction Act - a \$25 fee.

Representative Ekstrom stated the DHS wanted to encourage people to move over to the IV-D program.

Discussion regarding General Funds.

Page 2

House Appropriations Committee

Human Resources Division

Bill/Resolution No. 2129

Hearing Date: March 23, 2007

Mike Schwindt, Director of Child Support Enforcement, stated the General Fund is on the expenditure side and that is the cost needed to compute it and to change their computer system. We do need to make the program changes by October 1st in order to get in compliance with this.

Representative Kreidt moved a "Do Pass."

Motion seconded by Representative Ekstrom.

Roll Call Vote: 8 yes and 0 no. Passed.

Carrier: Representative Kreidt

Adjournment.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB ~~2119~~ 2129

House Appropriations Committee

Check here for Conference Committee

Hearing Date: 3-23-07

Recorder Job Number: 5547

Committee Clerk Signature



Minutes:

Chairman Svedjan opened the committee hearing on SB ~~2119~~²¹²⁹ which comes from the Human Resource section.

Rep Kreidt: This bill deals with a child custody collections and came from the Human Services Committee. This is in response to the federal deficit reduction act of 2005. This places emphasis on the enforcement of medical support and also it requires to impose a \$25 fee in certain cases. The bill also refines some of our collection tools so our efforts can be more effective and responsive to both the needs of the parents. This is also a federal mandate that requires \$127,550 in general funds and other funds of \$247,598. The funds are in Senate bill number 2012, the Dept of Human Services budget. This is to encourage individuals who are on the non 4D cases to move over to the 4D cases and get under the \$25 per year collection instead of the \$10 per month.

Rep Kreidt moved a Do Pass on SB 2129

Seconded by Rep Ekstrom

Chairman Svedjan: This bill has no fiscal note. It is in the Human Services budget.

Page 2

House Appropriations Committee

Bill/Resolution No. SB 2129

Hearing Date: 3-23-07

Rep Carlson: If I'm reading this right it is actually a net revenue increase.

Rep Kreidt: That's correct.

Rep Wald: On page 3, lines 19-22, the language says we are forcing the stepparent to provide health insurance on the dependant children.

Rep Pollert: We only looked at the dollars in appropriations, not the policy.

Rep Kreidt: That didn't come up in our section.

Rep Wald: That's disturbing to me the way it is written.

(yes) 19 (no) 3 (absent) 2

Carrier: Rep Weisz

Date: 3/23/07
 Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2129

House Appropriations Full Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Kreidt Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich		✓			
Representative Wald		✓	Representative Aarsvold	✓	
Representative Monson	✓		Representative Gullekson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson	✓				
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 19 No 3

Absent 2

Floor Assignment Rep. Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 27, 2007 10:50 a.m.

Module No: HR-55-6324
Carrier: Welsz
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2129, as engrossed and amended: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS (19 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2129, as amended, was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2129

AH #1

1-10-07

Testimony
Senate Bill 2129 – Department Of Human Services
Senate Judiciary Committee
Senator Nething, Chairman
January 10, 2007

Chairman Nething, members of the Judiciary Committee, I am Mike Schwindt, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Senate Bill 2129.

This bill covers many aspects of the Child Support Enforcement (CSE) program.

- It responds to the federal Deficit Reduction Act of 2005 (DRA), which places a greater emphasis on enforcement of medical support and also requires us to impose a \$25 per year fee in certain cases;
- The bill refines some of our collection tools so our efforts can be more effective and responsive to the needs of both parents; and
- The bill proposes some changes regarding our operation of the State Disbursement Unit (SDU) and the records maintained on our computer system.

Section One. Current state law allows records maintained on our automated system to be admitted into evidence in a court proceeding unless disputed by a party. A local prosecutor has suggested the law be clarified to indicate that this general rule applies in criminal prosecutions.

Section Two. Each party in a child support case is currently required to "immediately" inform the SDU of the party's address, telephone number, and certain other pieces of information. In response to a suggestion from a judicial referee, the bill proposes a ten-day timeframe for providing the

updated information (similar to updating a person's drivers license information) so the duty to provide the updated information can be enforced by a court if necessary.

Section Three. For child support to be due after a child turns eighteen, the custodial parent must file an affidavit. Currently, a custodial parent has up to one year plus 90 days after the child's eighteenth birthday to file the affidavit. Until the affidavit is returned, the obligor owes no child support. However, once the affidavit is returned, the duty of support "continues" after the child's eighteenth birthday. As a result, an obligor who paid in full and on time until the child's eighteenth birthday, and had not been required to make a payment for over a year, could now owe up to twelve months of arrears. Under the proposed amendment, the support obligation would resume when the application is received, but the obligor would not owe any arrears due to the custodial parent's delay in providing the affidavit.

Example: Obligor owes a \$300 monthly obligation for one child and pays in full and on time each month. The child turns 18 in June 2007, but has one year left of high school. In May 2007, the custodial parent receives an affidavit to complete to continue the obligation until the child graduates, moves out, or turns 19, whichever happens first. The custodial parent does not return the affidavit, and the obligation stops.

After the child graduates in May, 2008, the custodial parent decides to return the affidavit. The affidavit "continues" the obligation retroactively from the child's eighteenth birthday forward, creating an arrearage of twelve months of support from June 2007 to May

2008. If the obligor does not pay the full \$3,600 at once, interest will accrue and collection actions will resume, including reporting the arrears to credit bureaus.

Section Four. We propose to clarify this section in response to an argument recently raised by an obligor who tried to avoid paying child support by assigning the right to receive estate property to a sibling.

Section Five. As indicated earlier in this testimony, the federal government is placing greater emphasis on enforcing medical support for children. State law requires the court to order the custodial parent, rather than the child support obligor, to provide health insurance for the child or children if the insurance is available to the custodial parent at no or nominal cost. The proposed new section would allow CSE to enforce this obligation against custodial parents using the National Medical Support Notice. This is the same notice we currently use to enforce health insurance obligations against obligors, and the federal government is currently changing the notice so it can be used for either parent.

Section Six. Stepparents are required to support their stepchildren as long as they live in the same family unit. Many employers, including the military and the State of North Dakota, extend health insurance coverage to dependent children of a stepparent's spouse at no or nominal cost to the stepparent. Under the proposed amendment, any coverage available at no or nominal cost to the stepparent would be considered coverage available to the custodial parent. This change would allow CSE to enforce the existing duty of the custodial parent to enroll the children in available coverage, when necessary, rather than require the obligor to provide coverage.

Section Seven. Occasionally, the SDU finds itself distributing an arrears payment to a parent who also owes a current support obligation or other debt to the Department. Rather than paying the money out and then trying to collect it back, the amendment would allow the Department to intercept the arrears payment and apply it on the parent's behalf to the parent's other obligations.

Example #1. Mom is the custodial parent and is owed arrears by Dad. Mom is convicted of a crime and goes to jail, so custody is transferred to Dad. Mom now owes current support to the children while in jail, and Dad is making arrears payments. When the arrears payment is made through the SDU, the money is now forwarded to Mom even though her current support obligation to the children is still unpaid. The change would get the money back to Dad for the children's current needs.

Example #2. Dad was the custodial parent of children with Mom #1. The children are now all over age 18, but Mom #1 still owes Dad some arrears. Dad also owes current child support to his children in a second family with Mom #2. Dad also owes the taxpayers money for a TANF (Temporary Assistance for Needy Families) payment he should not have received when he had custody of the children with Mom #1. When Mom #1 makes a payment on arrears to Dad through the SDU, the change would mean the money would be paid first to Mom #2 for current support with the balance used to reimburse taxpayers for the payment Dad should not have received.

Under the proposed amendments, the SDU would be authorized to take the sensible approach of intercepting arrears payments and applying the money to debts the Department is currently trying to collect.

Section Eight. Similar to the examples discussed above, current law allows arrears debts to be offset by a court order in certain situations. This law has worked well in a number of cases since it was enacted in 2003. However, there are times when the parties are reluctant to go to court, or when the balance remaining to offset is too small to justify the time and expense of a court action. The proposed amendment would give CSE the authority to issue an administrative order offsetting arrears owed by two parents to each other, as long as neither parent objects.

Section Nine. In the DRA, the federal government has required the CSE program to impose a fee of \$25 per year in every child support case enforced under Title IV-D of the Social Security Act in which collections in the year are at least \$500. This requirement does not apply to cases where TANF had been expended at some point. Unless federal law is changed, the anticipated deadline for imposing this fee is October 1, 2007.

Assuming federal law is not changed, the DRA gives the State four options:

1. Collect the fee from the obligor,
2. Collect the fee from the obligee,
3. Deduct the fee from payments made through the SDU to the obligee, or
4. Pay the fee out of state general funds.

The proceeds of the fee must be used to offset the expenses of the child support enforcement program.

We request legislative direction on the appropriate option for collecting the fee.

- Between Option #2 and Option #3, we prefer Option #3 because it ensures the fee is collected. Under Option #2, the child support payment is made to the obligee and then the obligee is required to return a portion of the payment as the fee. The State would be liable to the federal government for any uncollected fee.
- We assume Option #4 would not be preferred due to the state general fund impact.
- Thus, the choice appears to be between imposing the fee on the obligor (Option #1) and deducting the fee from payments to the obligee (Option #3).

The Department recommends the language in Section Nine as a balance between the interests of each parent. The amount of the fee imposed on an obligee is relatively modest (\$25 per year), especially considering the cost of hiring an attorney or bill collector to collect the child support. At the same time, the language authorizes a court to pass on the cost of the fee to the obligor as an arrearage. Through the court process, an obligor is given notice and an opportunity to pay the fee, rather than being surprised with an annual "arrearage."

There is also another complication. The federal government shares in the cost of the collection and distribution services provided by the child support enforcement program in IV-D cases. The State pays the full cost of such services in nonIV-D cases. Accordingly, since a fee must be

imposed in certain IV-D cases, we believe it would be appropriate to impose a fee in nonIV-D cases as well. However, the fee should be higher since the State is funding the full cost of those services. If a parent wants to take advantage of the lower fee, he or she can apply for IV-D services.

Section Ten. Another scenario commonly faced by the CSE program is an ongoing monthly child support obligation "payable to the obligee on behalf of the children" in one court case, but custody of the children has been placed with a guardian or other third party (e.g. grandparents) in a different court case. Often, the monthly support payments are still payable to the former custodial parent even though someone else now has legal custody of the children. Rather than make the parties go back to court to change the payee, the proposed amendment would authorize the payee to be changed as an administrative matter as long as none of the parties object. As with the offsets proposed in Section Eight, this change would allow us to provide a greater level of customer service without making the parties go to court, as long as everyone is in agreement with the proposed change in payee.

Section Eleven. We maintain the official payment records of all child support obligations in North Dakota, not just those currently being enforced under Title IV-D. This is different from some other states which only monitor obligations that are being enforced under IV-D.

The changes are intended to address two situations where the accuracy of the state's payment records could be improved. First, when an obligation is enforced by another state's IV-D program, North Dakota may no longer receive information regarding payments made to the other state. This

can lead to the situation where an obligor appears to owe arrears according to our records when in fact the obligation has been fully paid in another state. The change would allow us to remove the debts from our records until one of the parties asks for the obligation to be enforced in North Dakota and we can obtain up-to-date payment information from the other state.

Second, there is no longer a statute of limitations for child support obligations. As a technical matter, arrears can be owed forever, even many years after an obligor has died and any estate has closed. Under the proposed change, after a sufficient period of time has passed since the death of the obligor to know there are no assets in the obligor's estate to pay child support, then the arrears could be removed from the state's records. That way, even though the debt is still legally owed, the state's payment records do not include totally uncollectible arrears.

Section Twelve. This section is proposed to clarify the existing authority of the CSE program to obtain information from public utilities including cellular and wireless telephone companies. As more people move from traditional telephone service to cellular or wireless service, other states have found a match with those providers to be an effective way of locating people, which leads to successful establishment and enforcement of child support obligations.

Section Thirteen. This change is made to comply with changes in federal law under the DRA. The process described in state law is not currently used by any state, and the federal law was changed to encourage states to use automated administrative enforcement processes.

Section Fourteen. This change amends a provision inadvertently omitted from legislation enacted last session to create the arrears registry, which includes all obligors who owe arrears greater than two times the current or most recent monthly support obligation or \$2,000, whichever is less.

Section Fifteen. Current law requires the child support enforcement program to maintain a list of all obligors who have ever been held in contempt of court for nonpayment of child support or who have been convicted of nonpayment of support. The proposed change would confirm our authority to remove from the list any obligor who is deceased, who no longer owes any child support, or whose obligation is being enforced in another jurisdiction and we are unsure whether or not the child support has been paid.

Section Sixteen. As indicated earlier in my testimony, the federal government is placing greater emphasis on enforcement of medical support for children. CSE currently has authority to obtain information from health insurers in North Dakota. We are proposing the new section to clarify that all health insurers in North Dakota are expected to participate in the data match program.

This concludes my testimony. I would be happy to answer any questions the committee may have.

1-17-07
Att #1

Prepared by the North Dakota
Department of Human Services
01/10/07

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

Page 5 Title "Service" strike "Recovery from obligor"
Page 1, line 3, remove the first "and"

Page 1, line 8, after "enforcement" insert "; and to declare an emergency"

Page 8, line 13, replace "fnsurer" with "insurer"

Page 8, line 14, replace "data" with "information" and replace "public authority" with "state agency"

Page 8, line 15, after the period insert "An insurer must provide the health insurance information required in this section to the state agency or its agent not more frequently than twelve times in a year. The insurer must provide the information required in this section at no cost if the information is in a readily available structure or format. If the state agency requests the information in a structure or format that is not readily available, the insurer may charge a reasonable fee for providing the information, not to exceed the actual cost of providing the information. The state agency and its agents may not use or disclose any information provided by the insurer under this section except to establish or enforce a child support or medical support obligation, or as otherwise permitted or required by law. An insurer may not be held liable for the release of health insurance information to the state agency or its agents under this section."

Page 8, after line 15, insert:

"SECTION 17. EMERGENCY. Section 16 of this Act is declared to be an emergency measure."

Renumber accordingly

Att # 2a

1-10-07

**Testimony on SB 2129
Senate Judiciary Committee
January 10, 2007**

Mister Chairman and Committee Members, for the record I am Rod St. Aubyn, representing Blue Cross Blue Shield of North Dakota. I appear before you today really in a neutral position on the bill except for the last section, which we oppose in its current form.

Section 16, as written, is extremely broad and gives the department tremendous authority for personal health information on **any** of our members, whether they are involved in the child support area or not. In addition, it does not identify how the information is to be provided, electronic or written format, the allowed frequency of requests, who is responsible for the costs of the reporting, and numerous other details. We have been told they are securing electronic data. If this is the case, depending upon the format of data sharing, it could be extremely costly to complete and program. There are some simpler ways to accomplish this, which would be the least expensive process. We are working with SD for this data sharing through the ANSI/HIPAA standard eligibility inquiry transaction (270) initiated by the department, with the eligibility response (271) transmitted back from the insurer. This can be run in either batch or single transaction mode. The advantage of this process would be it would ensure the interchange of "minimum necessary information", another requirement of HIPAA. There has been discussion nationally about establishing a standard format for this data sharing in regards to Medicaid, but to date no standard format has been adopted.

We assume that the intent is to share information limited to specific clients in the child support system. However, as written, it is not limited to just that. Another issue we are concerned about is the possible liability of our company in case personal health information (PHI) is inappropriately shared with others. As we understand, the department intends to contract with another company to work with this data. Under federal laws regarding HIPAA, we are potentially liable for this data sharing if either the department or its agents divulge PHI inappropriately. If this section is to be adopted we ask for some immunity for liability.

Mr. Chairman, if you feel that this section of the bill is necessary, I would like to offer an amendment to address some of our concerns. We don't necessarily disagree with the intent of what the department is trying to accomplish. However, as written we strongly oppose Section 16 and ask for consideration of our amendments.

Mister Chairman and committee members, I would be willing to answer any questions you may have.

AH # 26

1-10-07

Proposed Amendment to SB 2129
Submitted by Rod St. Aubyn, BCBS of ND

Page 8, line 13, replace "fnsurer" with "insurer"

SECTION

Page 8, line 15, after "obligation." add "The insurer must provide the data match information required in this subsection to the child support agency or its agent, not more frequently than twelve times in a year at no cost if the information is in a readily available structure or format. If the child support agency requests the information in a structure or format that is not readily available, the insurer may charge a reasonable fee for providing the information, not to exceed the actual cost of providing the information. The child support agency and its contracted entities may not use or disclose any information provided by the insurer other than as permitted or required by law. The insurer may not be held liable for the release of insurance information to the child support agency, its contracted entity, ~~or the director~~ by any party when done so under the authority of this section."

Emergency Clause ?

HH #3

78144.0100

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2131

Introduced by

Industry, Business and Labor Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to create and enact a new section to chapter 50-24.1 of the North Dakota
2 Century Code, relating to information provided by health insurers to the department of human
3 services; and to declare an emergency.

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

5 **SECTION 1.** A new section to chapter 50-24.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Insurers to provide certain information to the department of human services.**

8 1. For purposes of this section:

- 9 a. "Department" means the department of human services or its agent.
- 10 b. "Health insurer" includes self-insured plans, group health plans as defined in
11 section 607(1) of the Employee Retirement Income Security Act of 1974
12 [29 U.S.C. 1167(1)], service benefit plans, managed care organizations,
13 pharmacy benefit managers, individual or group accident and health insurers,
14 or other parties that legally are responsible by statute, contract, or agreement
15 for payment of a claim for a health care item or service as a condition of doing
16 business in the state.
- 17 c. "Medical assistance" means benefits paid under chapter 50-24.1 and title XIX
18 of the Social Security Act [42 U.S.C. 1396 et seq.].

19 2. As a condition of doing business in this state, health insurers shall provide to the
20 department upon its request and in a manner prescribed by the department
21 information about individuals who are eligible for medical assistance so the
22 department may determine during what period the individual or the individual's
23 spouse or dependents may be or may have been covered by a health insurer and
24 the nature of the coverage provided by the health insurer, including the name,

- 1 address, and identifying number of the plan. Notwithstanding any other provision
2 of law, every health insurer, not more frequently than twelve times in a year, shall
3 provide to the department upon its request information, including automated data
4 matches conducted under the direction of the department, as necessary, to:
- 5 a. Identify individuals covered under the insurer's health benefit plans who are
6 also recipients of medical assistance;
 - 7 b. Determine the period during which the individual or the individual's spouses or
8 the individual's dependents may be or may have been covered by the health
9 benefit plan; and
 - 10 c. Determine the nature of the coverage.
- 11 The insurer must provide the information required in this subsection to the
12 department at no cost if the information is in a readily available structure or format.
13 If the department requests the information in a structure or format that is not readily
14 available, the insurer may charge a reasonable fee for providing the information,
15 not to exceed the actual cost of providing the information.
- 16 3. To facilitate the department in obtaining the information required by this section, a
17 health insurer shall:
- 18 a. Cooperate with the department to determine whether a medical assistance
19 recipient may be covered under the insurer's health benefit plan and is eligible
20 to receive benefits under the health benefit plan for services provided under
21 the medical assistance program.
 - 22 b. Respond to the request for information within ninety days after receipt of
23 written proof of loss or claim for payment for health care services provided to
24 a recipient of medical assistance who is covered by the insurer's health
25 benefit plan.
 - 26 c. Accept the department's right of recovery and the assignment to the
27 department of any right of an individual or other entity to payment from the
28 liable third party for an item or service for which payment has been made
29 under the state medical assistance plan.

- 1 d. Respond to any inquiry by the department regarding a claim for payment for
2 any health care item or service that is submitted no later than three years after
3 the date of the provision of the health care item or service.
- 4 e. Agree not to deny a claim submitted by the department solely on the basis of
5 the date of submission of the claim, the type of format of the claim form, or a
6 failure to present proper documentation at the point of sale that is the basis of
7 the claim if:
- 8 (1) The claim is submitted by the department within the three-year period
9 beginning on the date on which the item or service was furnished; and
- 10 (2) Any action by the department to enforce its rights with respect to such
11 claim is commenced within six years of the department's submission of
12 the claim.

13 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Same given to House Human Services

Testimony
Senate Bill 2129 – Department Of Human Services
Senate Appropriations Committee
Senator Ray Holmberg, Chairman
February 2, 2007

Chairman Holmberg, members of the Senate Appropriations Committee, I am Mike Schwindt, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Senate Bill 2129.

This bill covers many aspects of the Child Support Enforcement (CSE) program.

- It responds to the federal Deficit Reduction Act of 2005 (DRA), which places a greater emphasis on enforcement of medical support and also requires us to impose a \$25 per year fee in certain cases;
- The bill refines some of our collection tools so our efforts can be more effective and responsive to the needs of both parents; and
- The bill proposes some changes regarding our operation of the State Disbursement Unit (SDU) and the records maintained on our computer system.

Section One. Current state law allows records maintained on our automated system to be admitted into evidence in a court proceeding unless disputed by a party. A local prosecutor has suggested the law be clarified to indicate that this general rule applies in criminal prosecutions.

Section Two. Each party in a child support case is currently required to "immediately" inform the SDU of the party's address, telephone number, and certain other pieces of information. In response to a suggestion from a judicial referee, the bill proposes a ten-day timeframe for providing the

updated information (similar to updating a person's drivers license information) so the duty to provide the updated information can be enforced by a court if necessary.

Section Three. For child support to be due after a child turns eighteen, the custodial parent must file an affidavit. Currently, a custodial parent has up to one year plus 90 days after the child's eighteenth birthday to file the affidavit. Until the affidavit is returned, the obligor owes no child support. However, once the affidavit is returned, the duty of support "continues" after the child's eighteenth birthday. As a result, an obligor who paid in full and on time until the child's eighteenth birthday, and had not been required to make a payment for over a year, could now owe up to twelve months of arrears. Under the proposed amendment, the support obligation would resume when the affidavit is received, but the obligor would not owe any arrears due to the custodial parent's delay in providing the affidavit.

Example: Obligor owes a \$300 monthly obligation for one child and pays in full and on time each month. The child turns 18 in June 2007, but has one year left of high school. In May 2007, the custodial parent receives an affidavit to complete to continue the obligation until the child graduates, moves out, or turns 19, whichever happens first. The custodial parent does not return the affidavit, and the obligation stops.

After the child graduates in May 2008, the custodial parent decides to return the affidavit. The affidavit "continues" the obligation retroactively from the child's eighteenth birthday forward, creating an arrearage of twelve months of support from June 2007 to May

2008. If the obligor does not pay the full \$3,600 at once, interest will accrue and collection actions will resume, including reporting the arrears to credit bureaus.

Section Four. We propose to clarify this section in response to an argument recently raised by an obligor who tried to avoid paying child support by assigning the right to receive estate property to a sibling.

Section Five. As indicated earlier in this testimony, the federal government is placing greater emphasis on enforcing medical support for children. State law requires the court to order the custodial parent, rather than the child support obligor, to provide health insurance for the child or children if the insurance is available to the custodial parent at no or nominal cost. The proposed new section would allow CSE to enforce this obligation against custodial parents using the National Medical Support Notice. This is the same notice we currently use to enforce health insurance obligations against obligors, and the federal government is currently changing the notice so it can be used for either parent.

Section Six. Stepparents are required to support their stepchildren as long as they live in the same family unit. Many employers, including the military and the State of North Dakota, extend health insurance coverage to dependent children of a stepparent's spouse at no or nominal cost to the stepparent. Under the proposed amendment, any coverage available at no or nominal cost to the stepparent would be considered coverage available to the custodial parent. This change would allow CSE to enforce the existing duty of the custodial parent to enroll the children in available coverage, when necessary, rather than require the obligor to provide coverage.

Section Seven. Occasionally, the SDU finds itself distributing an arrears payment to a parent who also owes a current support obligation or other debt to the Department. Rather than paying the money out and then trying to collect it back, the amendment would allow the Department to intercept the arrears payment and apply it on the parent's behalf to the parent's other obligations.

Example #1. Mom is the custodial parent and is owed arrears by Dad. Mom is convicted of a crime and goes to jail, so custody is transferred to Dad. Mom now owes current support to the children while in jail, and Dad is making arrears payments. When the arrears payment is made through the SDU, the money is now forwarded to Mom even though her current support obligation to the children is still unpaid. The change would get the money back to Dad for the children's current needs.

Example #2. Dad was the custodial parent of children with Mom #1. The children are now all over age 18, but Mom #1 still owes Dad some arrears. Dad also owes current child support to his children in a second family with Mom #2. Dad also owes the taxpayers money for a TANF (Temporary Assistance for Needy Families) payment he should not have received when he had custody of the children with Mom #1. When Mom #1 makes a payment on arrears to Dad through the SDU, the change would mean the money would be paid first to Mom #2 for current support with the balance used to reimburse taxpayers for the payment Dad should not have received.

Under the proposed amendments, the SDU would be authorized to take the sensible approach of intercepting arrears payments and applying the money to debts the Department is currently trying to collect.

Section Eight. Similar to the examples discussed above, current law allows arrears debts to be offset by a court order in certain situations. This law has worked well in a number of cases since it was enacted in 2003. However, there are times when the parties are reluctant to go to court, or when the balance remaining to offset is too small to justify the time and expense of a court action. The proposed amendment would give CSE the authority to issue an administrative order offsetting arrears owed by two parents to each other, as long as neither parent objects.

Section Nine. In the DRA, the federal government has required the CSE program to impose a fee of \$25 per year in every child support case enforced under Title IV-D of the Social Security Act in which collections in the year are at least \$500. This requirement does not apply to cases where TANF had been expended at some point. Unless federal law is changed, the anticipated deadline for imposing this fee is October 1, 2007.

Assuming federal law is not changed, the DRA gives the State four options:

1. Collect the fee from the obligor,
2. Collect the fee from the obligee,
3. Deduct the fee from payments made through the SDU to the obligee, or
4. Pay the fee out of state general funds.

The proceeds of the fee must be used to offset the expenses of the child support enforcement program.

We request legislative direction on the appropriate option for collecting the fee.

- Between Option #2 and Option #3, we prefer Option #3 because it ensures the fee is collected. Under Option #2, the child support payment is made to the obligee and then the obligee is required to return a portion of the payment as the fee. The State would be liable to the federal government for any uncollected fee.
- We assume Option #4 would not be preferred due to the state general fund impact.
- Thus, the choice appears to be between imposing the fee on the obligor (Option #1) and deducting the fee from payments to the obligee (Option #3).

The Department recommends the language in Section Nine as a balance between the interests of each parent. The amount of the fee imposed on an obligee is relatively modest (\$25 per year), especially considering the cost of hiring an attorney or bill collector to collect the child support. At the same time, the language authorizes a court to pass on the cost of the fee to the obligor as an arrearage. Through the court process, an obligor is given notice and an opportunity to pay the fee, rather than being surprised with an annual "arrearage."

There is also another complication. The federal government shares in the cost of the collection and distribution services provided by the child support enforcement program in IV-D cases. The State pays the full cost of such services in nonIV-D cases. Accordingly, since a fee must be

imposed in certain IV-D cases, we believe it would be appropriate to impose a fee in nonIV-D cases as well. However, the fee should be higher since the State is funding the full cost of those services. If a parent wants to take advantage of the lower fee, he or she can apply for IV-D services.

Section Ten. Another scenario commonly faced by the CSE program is an ongoing monthly child support obligation "payable to the obligee on behalf of the children" in one court case, but custody of the children has been placed with a guardian or other third party (e.g. grandparents) in a different court case. Often, the monthly support payments are still payable to the former custodial parent even though someone else now has legal custody of the children. Rather than make the parties go back to court to change the payee, the proposed amendment would authorize the payee to be changed as an administrative matter as long as none of the parties object. As with the offsets proposed in Section Eight, this change would allow us to provide a greater level of customer service without making the parties go to court, as long as everyone is in agreement with the proposed change in payee.

Section Eleven. We maintain the official payment records of all child support obligations in North Dakota, not just those currently being enforced under Title IV-D. This is different from some other states which only monitor obligations that are being enforced under IV-D.

The changes are intended to address two situations where the accuracy of the state's payment records could be improved. First, when an obligation is enforced by another state's IV-D program, North Dakota may no longer receive information regarding payments made to the other state. This

can lead to the situation where an obligor appears to owe arrears according to our records when in fact the obligation has been fully paid in another state. The change would allow us to remove the debts from our records until one of the parties asks for the obligation to be enforced in North Dakota and we can obtain up-to-date payment information from the other state.

Second, there is no longer a statute of limitations for child support obligations. As a technical matter, arrears can be owed forever, even many years after an obligor has died and any estate has closed. Under the proposed change, after a sufficient period of time has passed since the death of the obligor to know there are no assets in the obligor's estate to pay child support, then the arrears could be removed from the state's records. That way, even though the debt is still legally owed, the state's payment records do not include totally uncollectible arrears.

Section Twelve. This section is proposed to clarify the existing authority of the CSE program to obtain information from public utilities including cellular and wireless telephone companies. As more people move from traditional telephone service to cellular or wireless service, other states have found a match with those providers to be an effective way of locating people, which leads to successful establishment and enforcement of child support obligations.

Section Thirteen. This change is made to comply with changes in federal law under the DRA. The process described in state law is not currently used by any state, and the federal law was changed to encourage states to use automated administrative enforcement processes.

Section Fourteen. This change amends a provision inadvertently omitted from legislation enacted last session to create the arrears registry, which includes all obligors who owe arrears greater than two times the current or most recent monthly support obligation or \$2,000, whichever is less.

Section Fifteen. Current law requires the child support enforcement program to maintain a list of all obligors who have ever been held in contempt of court for nonpayment of child support or who have been convicted of nonpayment of support. The proposed change would confirm our authority to remove from the list any obligor who is deceased, who no longer owes any child support, or whose obligation is being enforced in another jurisdiction and we are unsure whether or not the child support has been paid.

Section Sixteen. As indicated earlier in my testimony, the federal government is placing greater emphasis on enforcement of medical support for children. CSE currently has authority to obtain information from health insurers in North Dakota. The Judiciary Committee adopted amendments developed in conjunction with Blue Cross Blue Shield of ND to clarify that all health insurers in North Dakota are expected to participate in the data match program. The amendments limit the insurer's liability if the data are inappropriately released.

The fiscal note shows impacts from Section 9 - fees. In 2007-09:

- The expenditures of \$375,148 would be to program FACSES. We would look to the FACSES maintenance budget in SB 2012 to fund the programming.

- Revenues of \$654,188 would be fees from nonIV-D cases at \$10 per month in months where a collection is received. The fees would go to the state general fund.

This concludes my testimony. I would be happy to answer any questions the committee may have.

Introduction to Child Support

"The purpose of the Child Support Enforcement program is to enhance the well-being of children and reduce the demand on public treasuries by securing financial and medical support from legally responsible parents and encouraging positive relationships between children and their parents."

Types of Cases

- **IV-D cases** = cases being enforced and funded under Title IV-D of the Social Security Act based on a referral from a public assistance program (TANF, Medical Assistance, or Foster Care) or when either parent applies for IV-D services.
- **NonIV-D cases** = cases in which child support is ordered by a court but the support is not being enforced under Title IV-D.

Major Programmatic Functions of IV-D Program

- Locate
- Paternity Establishment
- Establishment of Child Support Guidelines
- Establishment of Court-Ordered Child Support
- Establishment of Court-Ordered Medical Support
- Enforcement of Court-Ordered Support
- Review and Adjustment
- Receive, Record, and Distribute Child Support Payments

Federal Performance Measurements

- Paternity Establishment
- Support Order Establishment
- Current Collections
- Arrearage Collections
- Cost Effectiveness
- Medical Support (pending)

Program Funding

- Federal incentives
- State General Fund
- County Property Taxes

- Federal IV-D matching funds (66% federal, 34% state/county)

Contact Information

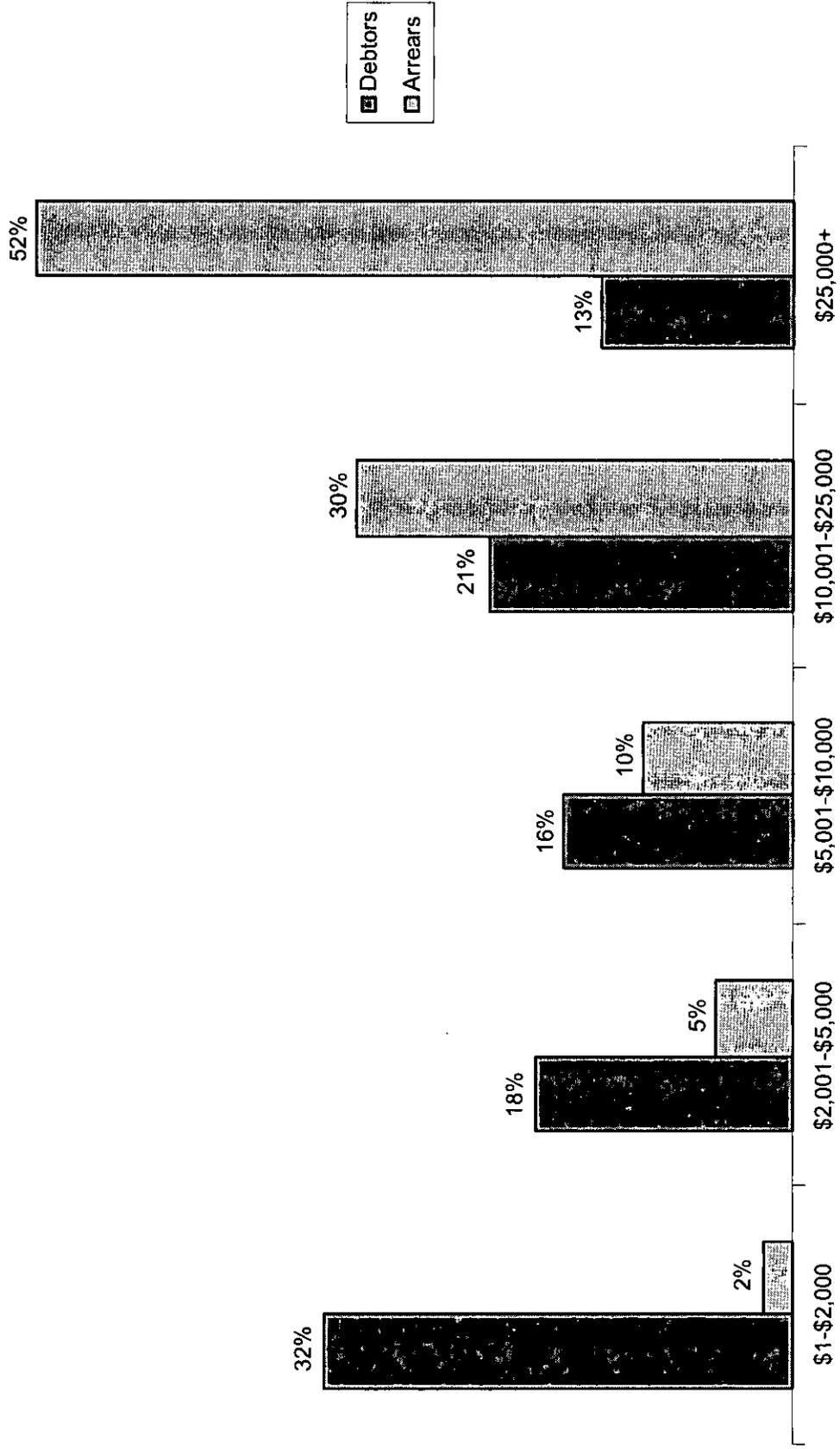
- Web site: <http://www.childsupportnd.com>
- Customer Service Unit e-mail: socscs@nd.gov
- Customer Service Phone: 800-231-3255 or local 328-5440
- Mike Schwindt, Director; soschm@nd.gov, 701-328-3582

CHILD SUPPORT COLLECTION TOOLS

TRIGGER POINTS/THRESHOLDS (Effective August 1, 2005)

Arrears Registry	Arrears are greater than \$2,000 or two times current or most recent monthly support obligation, whichever is less
Automatic Withdrawal from Accounts	Upon agreement with the obligor or upon request to the court if income withholding is inapplicable, ineffective, or insufficient
Bonds and Securities	Upon request to the court
Credit Bureau Reporting	Upon delinquency
Contempt of Court	Upon delinquency
Criminal Prosecution, Federal	Willful failure to pay for longer than one year or an amount greater than \$5,000
Criminal Prosecution, State	Willful failure to pay
Deduction Order	Upon delinquency
Domestic Relations Orders (QDROs)	Immediate
Garnishment	Upon delinquency
Income Withholding	Immediate or upon delinquency
License Suspension, "Judicial"	Upon order of the court if the obligor owes arrears exceeding three times the monthly child support obligation and is not current in a court-established repayment plan
License Suspension, "Administrative"	Breach of prior payment plan or arrears are greater than \$2,000 or two times current or most recent monthly support obligation, whichever is less
Liens on Personal Property	Arrears are greater than \$2,000 or two times current or most recent monthly support obligation, whichever is less
Liens on Real Property	Upon docketing arrears
Lottery Offset	Upon delinquency, if the prize is at least \$600
National Medical Support Notice	Immediate when appropriate and the obligor is required to carry dependent health insurance
Passport Denial	Arrears are at least \$5,000
Public Disclosure	Convicted of willful nonpayment, held in contempt of court, or arrears are greater than \$10,000
Tax Refund Intercept, Federal	Assigned arrears are at least \$150 or unassigned arrears are at least \$500
Tax Refund Intercept, State	Arrears exceed \$25
Work Activities	Upon order of the court pursuant to a plan to pay past-due child support
Writs of Execution, "Judicial"	Upon docketing of arrears
Writs of Execution, "Administrative"	Arrears are greater than \$2,000 or two times current or most recent monthly support obligation, whichever is less

**Distribution of Debtors and Arrears by Amount of Arrears Owed
(IV-D Civil Files) - December 28, 2006**



M. Schweint

DRAFT
March 12, 2007

SECTION ##. A new subdivision to subsection 1 of section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

Authorize a rebuttal of the presumption provided in subsection 3 based on the proportionate net incomes 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.

Renumber accordingly

75-02-04.1-09. Criteria for rebuttal of guideline amount.

1. The child support amount provided for under this chapter, except for subsection 2, is presumed to be the correct amount of child support. No rebuttal of the guidelines may be based upon evidence of factors described or applied in this chapter, except in subsection 2, or upon:
 - a. The subsistence needs, work expenses, and daily living expenses of the obligor; or
 - b. ~~The Except as provided for in subdivision m of subsection 2, the income of the obligee, which is reflected in a substantial monetary and nonmonetary contribution to the child's basic care and needs by virtue of being a custodial parent.~~
2. The presumption that the amount of child support that would result from the application of this chapter, except for this subsection, is the correct amount of child support is rebutted only if a preponderance of the evidence establishes that a deviation from the guidelines is in the best interest of the supported children and:
 - a. The increased need if support for more than six children is sought in the matter before the court;
 - b. The increased ability of an obligor, with a monthly net income which exceeds twelve thousand five hundred dollars, to provide child support;
 - c. The increased need if educational costs have been voluntarily incurred, at private schools, with the prior written concurrence of the obligor;
 - d. The increased needs of children with disabling conditions or chronic illness;
 - e. The increased needs of children age twelve and older;
 - f. The increased needs of children related to the cost of child care, purchased by the obligee, for reasonable purposes related to employment, job search, education, or training;
 - g. The increased ability of an obligor, who is able to secure additional income from assets, to provide child support;
 - h. The increased ability of an obligor, who has engaged in an asset transaction for the purpose of reducing the obligor's income

available for payment of child support, to provide child support;

- i. The reduced ability of the obligor to provide support due to travel expenses incurred predominantly for the purpose of visiting a child who is the subject of the order taking into consideration the amount of court-ordered visitation and, when such history is available, actual expenses and practices of the parties;
 - j. The reduced ability of the obligor to pay child support due to a situation, over which the obligor has little or no control, which requires the obligor to incur a continued or fixed expense for other than subsistence needs, work expenses, or daily living expenses, and which is not otherwise described in this subsection;
 - k. The reduced ability of the obligor to provide support due to the obligor's health care needs, to the extent that the costs of meeting those health care needs:
 - (1) Exceed ten percent of the obligor's gross income;
 - (2) Have been incurred and are reasonably certain to continue to be incurred by the obligor;
 - (3) Are not subject to payment or reimbursement from any source except the obligor's income; and
 - (4) Are necessary to prevent or delay the death of the obligor or to avoid a significant loss of income to the obligor; or
 - l. The reduced ability of the obligor to provide support when calculation of the obligation otherwise reflects consideration of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control; or
 - m. The reduced needs of the child to support from the obligor in situations where the net income of the obligee is at least three times higher than the net income of the obligor.
3. Assets may not be considered under subdivisions g and h of subsection 2, to the extent they:
- a. Are exempt under North Dakota Century Code section 47-18-01;
 - b. Consist of necessary household goods and furnishings; or

- c. Include one motor vehicle in which the obligor owns an equity not in excess of twenty thousand dollars.
4. For purposes of subdivision h of subsection 2, a transaction is presumed to have been made for the purpose of reducing the obligor's income available for the payment of child support if:
 - a. The transaction occurred after the birth of a child entitled to support;
 - b. The transaction occurred no more than twenty-four months before the commencement of the proceeding that initially established the support order; and
 - c. The obligor's income is less than it likely' would have been if the transaction had not taken place.
5. For purposes of subdivision j of subsection 2, a situation over which the obligor has little or no control does not exist if the situation arises out of spousal support payments, discretionary purchases, or illegal activity.
6. For purposes of subdivisions a through f of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter.
7. For purposes of subdivisions g through l of subsection 2, any adjustment shall be made to the obligor's net income.
8. For purposes of subdivision m of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter after taking into consideration the proportion by which the obligee's net income exceeds the obligor's net income.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

HOW TO REQUEST A DEVIATION FROM THE GUIDELINE AMOUNT OF CHILD SUPPORT

You have been provided with documents that will or can be used to establish or modify a child support obligation. To proceed, you may either represent yourself in court or obtain the services of an attorney. The child support attorney does not represent either parent. If you feel that you are unable to represent yourself, it is best that you contact an attorney. If you cannot afford an attorney, you can seek a low cost attorney through the State Bar Association of North Dakota.

Be aware that there are time lines that need to be followed. If you fail to meet these time lines, the court may make a decision without you.

If you feel that you are entitled to a deviation from the amount of child support determined by the guidelines, these are the steps to take:

1. **Notify** the Child Support Enforcement Unit of the deviation you are seeking.
2. **Request** a court hearing by sending a written notice to the Court Administrator's Office or the Child Support Enforcement Unit.
3. **If you have been sent a document called a stipulation by the Child Support Enforcement Unit, do not sign it.** The stipulation does not allow for the deviation you are seeking. If you sign it, you will give up your right to claim the deviation.
4. **Provide** all requested documents and other proof to the party requesting the information. Failure to provide the information may result in the court denying your request for a deviation, or ordering an amount of support that is higher or lower than it should be.
5. **Gather** the proof necessary to convince the court that you are entitled to the deviation. The Child Support Enforcement Unit will NOT gather this information for you, nor will it present evidence in court to support your claim for a deviation. Any requests for information from a party to your case must be properly served prior to the court hearing.
6. **Bring** all the paperwork and witnesses you need to the court hearing. If you do not bring all necessary proof to the court hearing, the court may rule against you and may not give you another chance to obtain the information.
7. **If you need more time to gather the information or to obtain witnesses, contact** the Child Support Enforcement Unit well in advance of your court date for information on how to request that the hearing be postponed. Waiting until the last minute will increase the chance that your request is denied. **Be sure** to appear in court at the original day and time unless you have obtained written notice from the court that the date has been changed.

DRAFT
March 12, 2007

[RCSEU}
[Address]
[Address]

[Telephone Number}
[TTY]

IMPORTANT INFORMATION ABOUT CHILD SUPPORT GUIDELINES – PLEASE READ!!

Child support obligations are based on North Dakota's child support guidelines. The guidelines include a list of items that, if they apply in your case, the judge can consider in deciding whether the obligation should be higher or lower than if they don't apply. These items are commonly referred to as guidelines deviations.

Some deviations are based on increased needs of the child or the increased ability of the obligor to pay support. These are referred to as upward deviations and, if they are applied, result in the obligation being increased. Some deviations are based on decreased ability of the obligor to pay support or the decreased needs of the child to receive support from the obligor. These are referred to as downward deviations and, if they are applied, result in the obligation being decreased.

The child support obligation that is being proposed by Child Support Enforcement and that appears on the attached stipulation does not consider any possible deviations that may apply to your case. If you think one or more deviations would apply and if you would like the judge to consider your situation or if you don't agree with the stipulation for any other reason, please do the following:

- **Do not** sign the attached stipulation. Instead, notify Child Support Enforcement that you don't agree with the stipulation and explain why you don't agree. Child Support Enforcement will file paperwork asking the judge to set a hearing. You will be notified of the date, time, and place for the hearing.
- Appear at the hearing and bring documentation to support your position. For example, if you want the judge to consider an upward deviation based on your child care costs, bring documentation that shows how much you pay for child care: Or, if you want the judge to consider a downward deviation based on your visitation travel expenses, bring documentation that shows these costs. At the hearing, Child Support Enforcement will not argue either for or against any deviations – this will be up to you. It is up to the judge to make the final decision about what the obligation will be, including whether a deviation applies and, if so, how much the obligation is to be increased or decreased. (If you cannot appear in person at the hearing, it may be possible to make arrangements for you to appear by telephone.)

If you have any questions about the child support guidelines and how they were applied in your case, please contact Child Support Enforcement at the address or phone number at the top of this notice.

These are the **upward deviations**:

- The increased need if support for more than six children is sought in the matter before the court.
- The increased ability of an obligor, with a monthly net income which exceeds twelve thousand five hundred dollars, to provide child support.
- The increased need if educational costs have been voluntarily incurred, at private schools, with the prior written concurrence of the obligor.
- The increased needs of children with disabling conditions or chronic illness.
- The increased needs of children age twelve and older.
- The increased needs of children related to the cost of child care, purchased by the obligee, for reasonable purposes related to employment, job search, education, or training.
- The increased ability of an obligor, who is able to secure additional income from assets, to provide child support.
- The increased ability of an obligor, who has engaged in an asset transaction for the purpose of reducing the obligor's income available for payment of child support, to provide child support.

Here is a list of the **downward deviations**:

- The reduced ability of the obligor to provide support due to travel expenses incurred predominantly for the purpose of visiting a child who is the subject of the order taking into consideration the amount of court-ordered visitation and, when such history is available, actual expenses and practices of the parties.
- The reduced ability of the obligor to pay child support due to a situation, over which the obligor has little or no control, which requires the obligor to incur a continued or fixed expense for other than subsistence needs, work expenses, or daily living expenses, and which is not otherwise described in this subsection.
- The reduced ability of the obligor to provide support due to the obligor's health care needs, to the extent that the costs of meeting those health care needs:
 - ❖ Exceed ten percent of the obligor's gross income;

- ❖ Have been incurred and are reasonably certain to continue to be incurred by the obligor;
 - ❖ Are not subject to payment or reimbursement from any source except the obligor's income; and
 - ❖ Are necessary to prevent or delay the death of the obligor or to avoid a significant loss of income to the obligor;
- The reduced ability of the obligor to provide support when calculation of the obligation otherwise reflects consideration of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control.
 - The reduced needs of the child to support from the obligor in situations where the net income of the obligee is at least three times higher than the net income of the obligor.

MONTHLY OBLIGATION INCOME SHARES 3:1

STATE	MODEL	VISITATION		FREQUENCY
		44 NIGHTS	60 of 90	
ND	Obligor	441	406	
IA	Income Shares	416	416	
MN	Income Shares	347	347	
SD	Income Shares	366	366	
MT	Melson	172		about a dozen times per year
CO	Income Shares	232		very uncommon scenario
DE	Modified Melson	198		extreme factual case
FL	Income Shares	441		no idea
GU	Income Shares	201		Very rare if at all
MO	Income Shares	244		unknown but not very often
NC	Income Shares	333		5% of the caseload or less
NE	Income Shares	425		no idea
WV	Income Shares	303		Not in too many cases
VA	Income Shares	334		.2% (32 of 20,483 cases)
WA	Income Shares	416		Don't track

Assumption: Custodial Parent earns \$5,400 per month.
 Noncustodial Parent earns \$1,800 per month. They have two children in common.
 CP claims the children as dependents for tax purposes. Neither parent has access to health insurance
 and there are no child care expenses. NCP has court-ordered visitation for 44 nights per year.