

2015 HOUSE JUDICIARY

HB 1111

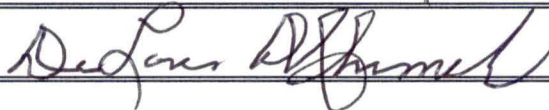
2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1111
1/13/2015
21913

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to child support; relating to motions to amend child support; and to declare an emergency.

Minutes:

Testimony #1

Chairman K.Koppelman: Opened the hearing on HB 1111 with testimony in support.

Jim Fleming, Director of the Child Support Division of the Dept. of Human Services (Child Support): We usually appear before the Human Services Committee. In ND child support obligations are established and modified by court order. So the courts role is very critical. It is not something child support does on its own. Much of this bill is technical changes while we are in the sections anyway. I have not tried in my testimony to explain every underline and overstrike. There have been several sections in here where we are trying to do one or two minor changes in substance and also updating the language while we are at it. (See Testimony #1) Went through the bill. (2:43-16:19)

Rep. D. Larson: Aren't there times when there is an agreement between the separate parents that you will cover the health insurance because that is one of the benefits you have with your company, but the child lives with the other parent most of the time and incurs most of the expenses. Would this allow for just an agreement between the different parents to do something out side of this?

Jim Fleming: This would allow for that type of agreement. A lot of child support agreements are not agreements between the parents, but are set by the court. If the parties are getting divorced and they have their own attorneys; they are going to stipulate to the court who should have the coverage. We will work with that. This section is intended to target the cases where they haven't reached that kind of agreement. (18:13-19:45) we rely heavily on the DOT and Game & Fish Dept. to see what things the divorcee might have especially when they are in arrears on their support.

Rep. Mary Johnson: When a child turns 18 and there are arrears; it is to be that that would become an automatic money judgment against the obligor so now you are liening up property, right under that? Now the 18 year old is living with the obligor and you want to

reduce the monthly amount that would be paid for arrears so that you don't squeeze as you put it the obligor. But you can go take his car?

Jim Fleming: We can, but we are not so foolish as to do so when that is the car that the child is riding along. That is part of the case workers judgment.

Rep. Mary Johnson: The obligee has that opportunity, correct because the money judgment is to the formerly custodial parent.

Jim Fleming: You are right. The obligee would have the option, but keep in mind that a lien on a vehicle doesn't prevent you from using it. It prevents you from selling it and pocketing the money instead of paying the lien holder.

Rep. Mary Johnson: My point is if there is a lien on this vehicle to execute a money judgment and attach property the sheriff can go get that car and give it to the obligee. It seems like we should not squeeze the obligor who is having the 18 year old living with them.

Jim Fleming: Child support is not the only method for people to enforce arrears so we can only control the actions that we take. A custodial parent or child support can put a lien on a vehicle. The lien will not result in the immediate seizure of the vehicle. This is so the obligor, even one who has custody of a minor child, if they go to sell the car that they are not able to pocket that money or equity in it when they also owe arrears. For child support one of the reasons you are seeing an amendment from us that actually reduces what we collect, which seems counterproductive for child support enforcement, but we are proposing this in recognition that when the child is living with the obligor we need to be sensitive to that and not respond in the same way that we would if the child was not living with that parent. As a judgment creditor; a custodial parent or their attorney could have the sheriff go out and seize the property. That is typical creditor law and you don't see a lot of role for the court in terms of saying you are legally OK doing that, but I don't like it because this kid is living there. We are here today to talk about what we do; not what private attorneys or creditors can do.

Rep. Mary Johnson: On Section 8 so you reduce an obligor's monthly amount due when the minor child has changed residency.

Jim Fleming: This is the monthly contribution toward the arrears. It doesn't mean that the balance is not due. It is reducing the amount that will be garnished from the employee's wages. The language on lines 18 & 19 on page 10; it conditions the reduction to when the child is living with the obligor pursuant to a court order.

Rep. Mary Johnson: I think I have figured it out now.

Jim Fleming: They could also go to court and say the obligor is able to pay more toward the arrears. This provision operates by operational law unless the court overrides it. We want to be a little more protective of the fact that the kid now lives with the obligor; but it is pursuant to a court order. So some judge at some point has said it is OK with me that this

kid now goes and lives with the obligor. Then we want to back off how fast they are paying off the arrears because they are also covering the current bills.

Jim Fleming: Continuing on testimony (28:01-31:51)

Rep. D. Larson: Page 2, Section 4 the 10% per year increase per year imposed if the obligor does not respond with their income. It seems to me if somebody does have a huge increase in their income it would be in their best interest not to give that information so the 10% would be incentive to give their financial information.

Jim Fleming: Yes one of the reasons we are proposing to repeal this requirement and of substitute something else is because the right answer to that depends a lot on the other facts. The situation you described is possible and it would be something the guidelines committee would have to consider. The more common example is the opposite where it is not 10% and now we are endanger of imposing uncollectible levels of current support. We feel that in context of the overall guidelines is a better to consider that.

Rep. D. Larson: Is there a time limit that an obligor could request a review?

Jim Fleming: Today that request to the court is filed in a motion. The motion would say the obligor has not participated or provided income data so therefore we move the court amend the obligation to reflect this additional income. If the court agree it becomes effective on the date of the motion that we have made. That is usually the catalyst for the obligor to work with us and respond and then we take under consideration their response and the income they have provided and we may often end up amending our motion to have an obligation that reflect the actual income and not this pretend 10% add on.

Rep. K. Wallman: If the 10% is looming out there and I just don't want to provide income information because my income has gone up; isn't that 10% out there an incentive to provide accurate information and why would we take it away? Is there something that would take its place?

Jim Fleming: We are not taking it away. It is still in the guidelines. It will not be changed until the guidelines committee including two of your colleagues take a methodical approach to this and say how we can be smarter than just a blanket rule of 10% for everybody.

Rep. K. Wallman: In the section on the affordable care act page 9 I just want to be sure I understand this. If the obligor is required to make sure that the child has insurance coverage, is that a federal mandate?

Jim Fleming: No not in that respect. The mandate is that there will be a tax penalty imposed on the parent who claims that tax exemption unless the child is insured. The priority for garnishment would be child support; then all the premiums; then everybody else. The situation that we are trying to avoid the penalty for tax on health insurance when the parent was supposed to provide it and did not.

Rep. K. Hawken: It could be I have the child; I get the tax deduction. My X spouse according to the divorce is paying the health insurance; can it stay that way?

Jim Fleming: It can. When we analysis the situation your scenario starts out with the clarity of who is claiming the child. Some orders aren't that clear so this is what we want clarity on.

Chairman K.Koppelman: On page 3, section 3 you talked about that written requirement and I understand why you put that in there. I am wondering about getting rid of the term written because it can mean electronic or paper delivery. Would it be wise to have the word written in there?

Jim Fleming: Our reason for removing written was to make it clear it could be either. If you would add a coma after written it says including electronic our mission is accomplished. We are looking for when we have now new customers we work with them and say how do you prefer to receive notices from us. If they say electronic we are good with that.

Chairman K.Koppelman: then on page 9, Section 7 your change from a shall to may might that imply that the agency might decline on a duty they need to do?

Jim Fleming: The department is not compelled to take all of these cases. If they are not required to do it we don't want that to lead to a referral. The biggest referral in this is children who receive health coverage from HIS. If you get Medicaid coverage they are supposed to be the payer of last resort. Child support should get involved and try to get health insurance coverage from one of the parents so Medicaid doesn't have to foot the bill.

Chairman K.Koppelman: I understand your reasoning on it being a shall. My concern is that this implies that the agency will always do the right thing, but the letter of the law would leave it to your discursion. Maybe we need a better way to state that.

Jim Fleming: We think it should be a may instead of a shall because with the proposed federal rules about referrals the federal government is recognizing a lot of these referrals are not a good idea. They are encouraging these programs to have a cooperative agreement that defines appropriate referrals in contrast to the inappropriate.

Recessed the hearing and come back after the floor session today.

2015 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1111
1/13/2015
21923

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to motions to amend child support; and to declare an emergency.

Minutes:

Proposed amendment #1

Chairman K.Koppelman reopened the hearing on HB 1111.

Jim Fleming: I did look if there is a general law about writing when it is used in the century code includes electronic. There are provisions about signature can mean electronic, but not really the means so there isn't a suitable overall provision in the Century Code that says when there is reference in writing it can include electronic. Since our intent is to have either paper or electronic perhaps the committee would want to amend our proposed legislation to indicate the writing can include electronic we would be comfortable with that.

Chairman K.Koppelman: Discussed how to do the amendment.

Jim Fleming: Counsel should be able to get you is the correct style. On page 9, line 23 you had proposed some changes. There are times when pursuing a referral would not be appropriate for all kinds of reasons. The operative federal word in this area to take appropriate action. Maybe it should say the agency shall take appropriate steps?

Chairman K.Koppelman: It leaves a requirement in law that you have to do something and by adding the word appropriate it gives the leeway that I think you are seeking.

Jim Fleming: There are times when the kids on TANF and now the child are off TANF after a month and we haven't even established a court order yet. It is not worth the effort to finish the establishment process for only one month of TANF. I think it would be a good proposal for you to consider.

Rep. D. Larson: I am still not sure about the 10% because if someone does end up having to pay 10% and it is not fair they can go right in and amend it and they can change it according to what you said earlier. If there was somebody that ended up getting charged that 10% and that became a burden for them they could back in and say yes this is not

working for me and here is my real proof of income? That is the part I am still unsure of why that change is needed.

Jim Fleming: They can go back and change it but at that point they need to do it on their own without the assistance of child support. They are also going to have to demonstrate to the court what has materially changed. For the first year after a child support order is modified it cannot be changed within that first year unless that parties show material changes. I can assure the committee that if this section were to be removed from the law it will remain in the regulation until we come up with a proposal that retains that incentive to cooperate and doesn't reward bad behavior. We just don't want to inflict more punishment than necessary.

Rep. K. Wallman: On the five year review is it my responsibility to keep track of that if I am a busy mom and forgets then what can I do?

Jim Fleming: It is a three year review and yes under the existing code section a custodial parent or an oblige is allowed to request that review.

Rep. K. Wallman: Does an automatic review happen? This takes it away. If I don't seek out my review then what happens?

Jim Fleming: What happens is a notice is given to both parties that the three year milestone has been reached.

Rep. K. Wallman: How do you track that down?

Jim Fleming: We do so with difficulty. The law says they must notify us a change of address and the court order says they must notify us a change of address but even so they lose track of us. When we collect funds we sometimes have to locate the payee. If we don't know where they are we are looking for them. Under the existing code that is not being changed they still get the notice of the right to request it and either party can request it.

Chairman K.Koppelman: Do you have cases when they don't call you even after the checks stop coming?

Jim Fleming: Yes there are such cases.

Chairman K.Koppelman: What happens if they have to collect from another state? Has that process improved at all?

Jim Fleming: Yes it has improved. The Uniform Law has been in place since 1996 and that has improved things a lot. We do a lot of networking and emails now that really helps.

Opposition: None

Hearing closed.

Chairman K.Koppelman: (See proposed amendment #1) Went over the proposal and corrected the line to 16 on page 3. It only changes the word necessary to appropriate from the current statue.

Motion made to adopt the amendment by Rep. P. Anderson: Seconded by Rep. Maragos

Discussion: None

Voice vote passed.

Motion Made Do Pass As Amended by Rep. G. Paur; Seconded by Rep. Brabandt:

Roll call vote: 9 Yes 0 No 4 Absent Carrier: Rep. K. Hawken:

January 13, 2015 *8/11/3/5*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1111

Page 3, line 16, remove the overstrike over "~~written~~"

Page 3, line 16, after "notice" insert ", including notice through electronic means."

Page 9, line 23, remove the overstrike over "~~shall~~"

Page 9, line 23, remove "may"

Page 9, line 23, overstrike "necessary" and insert immediately thereafter "the appropriate"

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.8040.01001.02000

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. P. Anderson: Seconded By Rep. Maragos

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO.**

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.8040.01001.02000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. G. Paur Seconded By Rep. Brabandt:

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	X		Rep. Pamela Anderson	X	
Vice Chairman Karls	X		Rep. Delmore	---	
Rep. Brabandt	X		Rep. K. Wallman	X	
Rep. Hawken	---				
Rep. Mary Johnson	---				
Rep. Klemin	---				
Rep. Kretschmar	X				
Rep. D. Larson	X				
Rep. Maragos	X				
Rep. Paur	X				

Total (Yes) 9 No 0

Absent 4

Floor Assignment Rep. K. Hawken:

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

REPORT OF STANDING COMMITTEE

HB 1111: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1111 was placed on the Sixth order on the calendar.

Page 3, line 16, remove the overstrike over "~~written~~"

Page 3, line 16, after "notice" insert ", including notice through electronic means,"

Page 9, line 23, remove the overstrike over "~~shall~~"

Page 9, line 23, remove "may"

Page 9, line 23, overstrike "necessary" and insert immediately thereafter "the appropriate"

Renumber accordingly

2015 SENATE JUDICIARY

HB 1111

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1111
3/4/2015
24297

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1

Ch. Hogue: We will open the hearing on HB 1111.

Jim Fleming, Director of Child Support Division, Dept. of Human Services:
Support (see attached 1).

Ch. Hogue: I know there are a few ways to go about collecting child support. You can take away their hunting license, secure if they win the lottery, I know you can also take their driver's license. Can you tell me how many obligors driver's license you've taken in the past 2-3 years?

Jim Fleming: I don't have that number. It has been elusive to try to collect that because one obligor may have multiple cases and generally we count by the case, and not by the obligor. I don't know if I could pull that number; it may not be a very reliable number. We do frequently get the question, "well you're in the collection business, don't you get the fact that you're not going to collect anything if the driver's license is taken away; how are they supposed to work". My response to that is the key; the key is what has to happen before we take it and what has to happen before we give it back. Before we take it, they have to be missing payments entirely. We send a notice of intent to suspend and they have 30 days to contact us. The defendant might say, my company just shut down, and I'm working towards getting a new job. They have that notice period to tell us why we shouldn't do this. It also allows us to look at it and say, "Yes the obligor has an arrearage but he/she is making steady monthly payments to try and chip away at it. They are doing right by that. Then we don't pursue the suspension. We don't have this automated where the instant they are 2 months or \$2,000 behind, without any worker involvement. We encourage our workers to look at that opportunity to not make things worse. To get the driver's license back, the obligor doesn't have

to come in and settle their arrears in full. We realize that's not feasible. We're looking for a commitment from them to make ongoing payments in the amount of current support plus making progress towards the arrears. If they'll enter that payment plan they will get the license back. If we've played that game with them a couple of times we're going to look for a down payment. We can be pretty lenient in entering those payment plans because the plan provides that if they miss any payment after the plan is signed, the license is re-revoked at that moment. That is connected to the state disbursement unit, so we've got a reliable interface there, so when they get behind then we know they are re-revoked at there, no extra 30 days. Because it is so efficient on the back end to re-suspend, we can be pretty workable on the front end to enter these payment plans.

Ch. Hogue: Is this a federal mandate or has the state of ND voluntarily decided this is an additional tool for you to use.

Jim Fleming: It is federally mandated that the state have procedures for suspension of driver's licenses. That's a federal mandate. Back in the 1990's, it was a judicial contempt remedy, but it was never applied. It didn't have any real deterrent value because nobody really took it seriously that that might happen. In 2003, Sen. Fisher sponsored legislation to make it an administrative rule. Now we are seeing that it does have a deterrent effect, because people know that this will happen if they don't work with child support. The trick is not how many licenses I can stack; but how many of those suspensions can be avoided because people don't want to end up in that stack. We can't redeem licenses for cash, so we really don't want to take them, we just need that leverage. It is successful; we try to be smart about the conditions where we take it and when we give it back. At some point, if we take too hard a line, the obligor won't be able to pay even if they are inclined to do so.

Ch. Hogue: I would like the number of driver's licenses you have suspended. Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1111
3/9/2015
24488

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

Ch. Hogue: Let's take a look at HB 1111. This was presented by Mr. Fleming as some technical corrections to the child enforcement guidelines. They brought some technical amendments in our technical corrections bill, but I think they regarded these as more substantive and not purely technical corrections. Does the committee have any concerns?

Sen. Luick: My concern is on page 3 of Mr. Fleming's testimony, the 10% increase. Was that identified in the bill itself, because he had questions about that?

Sen. Armstrong: They are taking out the annual 10% increase.

Ch. Hogue: He is referencing section 14 of the bill, which is an appeal. He repeats the statute on page 3 of his testimony.

Sen. Grabinger: The discussion was that in reality, someone's salary probably isn't going to go up 10%, so they wanted to repeal that section.

Sen. Luick: Especially in those cases where there is child support.

Ch. Hogue: I'm glad they are repealing that statute because my concerns have always been that the legislature has allowed, in my opinion, this agency to use very draconian measures against the obligors and often times they've defended it on the basis that it was compelled by federal law; for example, I asked Mr. Fleming and he obtained the information for me concerning the revocation or suspension of driver licenses. To me that is a very serious penalty for getting behind on child support. I know the agency has always been focused on yes, we understand that they can't work when they don't

have a driver's license or at least, makes it harder. In ND there is limited public transportation and you are really restricting their movement because of their child support obligations. I understand revoking someone's hunting license or taking their lottery winnings. Those all make sense to me, but the driver's license penalty is hard for me. This is another example, presuming that somebody is getting a 10% raise every year.

Sen. Luick: Does this bill identify what you were talking about with the driver's licenses at all.

Ch. Hogue: No, it doesn't really address it. I was more curious about it because it is such a concern.

Sen. Luick: To me, that is a huge concern. If we're meddling with this bill right now, maybe we should seriously consider taking that out. Since we don't have public transportation, we are taking a tool away from these folks that need to work.

Sen. Grabinger: In response, I certainly understand that concern. I had an employee myself that got behind and didn't realize that his license had been suspended; got pulled over and ended up in jail and it took me a lot of work to bail him out and get things straightened out so I could get him back to work. At the same time, we would be taking away a tool for our child support enforcement that probably does some good in some cases, where they have the ability that threat is hanging over somebody that you have to pay for your kids or you're going to lose your privilege to drive. I certainly don't think we should take that away from them either. Should there be some more discretion in how they enforce that, possibly. I'm not in the position to tell them that. I would caution us taking away their ability to have that.

Ch. Hogue: We will table this bill. Maybe we could require them to study how they or come with some recommendation in how they would minimize it because going back to a point that Sen. Luick made, I disagree, and I don't buy all this. It is more than a privilege to drive. If you can't drive in ND, you are sunk, you cannot live. It's not just a privilege as we're told when somebody restricts the right to drive. We certainly have the right to restrict it for people who drive under the influence, or disobey traffic.

Sen. Armstrong: When this first started being used, they were suspending a lot of driver licenses and I think the testimony supported that too, that they figured out it is a fairly counterintuitive thing to do unless you have to, because

when you suspend their license they can't work, which means that they can't pay child support. I don't think they are using this as much now as they did in the past. That is from talking to people who do this a lot more than I do. If somebody was interested you could do an area where if your license gets suspended you can get a work permit, a restricted license. When you go into arrears, if you are on a salary, sometimes the employer pays the arrears for them. If your license gets suspended you can get it reinstated providing proof of employment, then they know where to get their money.

Ch. Hogue: He sent me the numbers of suspended licenses. Currently there were a little over 2,000 obligors that had their license suspended. We will take this up later.

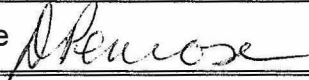
2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HB 1111
3/25/2015
25398

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Minutes:

1

Ch. Hogue: Let's take a look at HB 1111. This bill is regarding the child support enforcement unit of the Human Services dept. said this is our clean-up bill, etc. The federal government is always changing its regulations so we have a similar corresponding duty to do so. One of the things that I questioned the agency about was, of all the tools that they have to secure child support, one of them that really doesn't make sense and hits the obligor hard is when they actually revoke their driver's license. I don't think we have enough information to do anything with it. I would like them in the interim to tell us, this is similar to the higher education bill, I want them to tell us how many times they are revoking these, what's the duration of these revocations of these driver's licenses. A comparison of what other states are doing. I want them to come with a proposal that would minimize the revocation of suspending a person's drivers' license as a tool of enforcement. I don't know what the Legislature would do with it, but I just think that we don't put people in jail if they can't pay their bills.

Sen. Armstrong: Yes we do.

Ch. Hogue: I realize that child support is a very important bill that everybody should pay. I just get concerned about government overreach when they can't pay this particular bill. Talk about federal overreach, it's all driven by the federal government. When they give states their money for food stamps or other public assistance, they always condition it on "you will do this with your child support" and one of the things they've said is that you will have something in place for revoking their drivers' licenses, so we already have that. One of my biggest problems with this is that it affects people in ND much more harshly than it does in places where they have adequate public transportation. We just don't have that, especially out in the rural areas of ND.

It is a more severe sanction than it is in a lot of states. That's the purpose of my amendment, is to get the Dept. to tell us how often and how frequently they are using this sanction. How long is a person going without a drivers' license because they are not paying their child support. That's my proposal (see #1 Hogue Amendment).

Sen. Armstrong: Do you think we should put something in the bill to how effective is it at getting someone to pay their arrears. I find this to be counterintuitive. We talked about this in transportation committee last time, dealing with under suspension for non-child support related bills. If you take away someone's driver's license for not paying child support, and they live in a rural community and have to drive to get to their work, you have two choices. You either drive with a suspended license or they are going to remain unemployed. How do you pay your child support if you can't drive to work in rural ND? It would be interesting to see how often they suspend people and if the suspension is effective in collections.

Ch. Hogue: I think there are so many out there that they slip through the cracks. If your suspending upwards of a couple of thousands people's driver's license for non-payment of child support. I have a hard time seeing if every case is getting the attention it deserves. I'm willing to add that if the committee supports the amendment.

Sen. Casper: I'm fine with adding the additional language. I do think we need additional information before making these changes.

Ch. Hogue: There was a time, 3 or 4 sessions in a row, where they asked for various tools to be able to collect child support. You can't hunt, that makes sense. If you can't pay your child support, you shouldn't be out spending money to hunt. They've done it with capitol credit money because we're a member of a coop. They have the ability to require those coops to send them those checks. It's a very small amount but if the agency can get thousands of dollars in small amounts from coops, they can do that. One session they asked for tax refunds. Now they can intercept your tax refund to go towards child supports. They have a lot of tools.

Sen. Armstrong: There are two different types of people who are in arrears. There are people, who won't pay it, and I agree with Sen. Casper 100% and then there are people who can't pay it. The problem with this is you don't get court appointed counsel to go in and make your case. That is also counterintuitive, because if you get laid off a job or something like that

happens and now all of a sudden you are arrears and you want to go back and argue about setting your arrears, you have to hire a lawyer to do it. You're paying money to a lawyer which is going against your arrears. People who won't pay deserve no sympathy from us. There are people, though, who get caught up in this system through various reasons and they can't pay it, and are trying to do the right thing. The enforcement agency has gotten significantly better at distinguishing between those two groups of people.

Sen. Luick: Would a report like this identify the numbers of those types of individuals as far as the one who cannot and/or won't pay.

Sen. Armstrong: I think a report will give us a good clear understanding of when they are using it, how they use it, why they use it and what different types of people they think it is a tool for, and what types of people that they think it is a tool for. They don't use it as much as they used to. Whether they use it too much or not enough, that's what the report would tell us.

Ch. Hogue: If you get a revocation, one of the options are you just keep driving even without a license. There are a lot of employment positions where that's not an option because the first thing an employer does, is ask you for your driver's license and they check to make sure it is current, especially in the oil patch. Any larger employer, any employment that requires you to drive their vehicle, they are going to verify that you have a valid license. Those people get hit even harder. If you're working in downtown Bismarck or Fargo, your employer probably won't check the status of your license.

Sen. Grabinger: I agree with the study. Not to disagree with you but I've seen a case firsthand where they jumped the gun and suspended my employee's license. He didn't even get notification of it and was pulled over for not using his turn signal and he had a suspended license. He ended up in jail; I had to bail him out. It was because of a mix-up in the court, with the paperwork here in Morton County, and he was living in Stutsman County. He didn't even know his license was suspended. They are doing it very quickly. That's why I am concerned with this too. If I had been a different employer, that could have been very detrimental to him and his children, and he is adamant with his child support and supporting his kids. He's proud of what he does. That's get the information to see where the problems are.

Ch. Hogue: Is there a motion to adopt the amendment.

Sen. Grabinger: I move the Hogue amendment (#1) with the addition of DHS providing a report for the next session to see how much this suspension is used, how effective and successful is it.

Sen. Casper: Second the motion.

Ch. Hogue: We will take a voice vote. Motion carried. We now have the bill before us as amended.

Sen. Luick: I move a Do Pass as amended.

Sen. Grabinger: Second the motion.

6 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Ch. Hogue

March 25, 2015

40
3/25/15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1111

Page 1, line 7, after the semicolon insert "to provide for a report to the legislative management;"

Page 14, after line 8, insert:

"SECTION 15. DEPARTMENT OF HUMAN SERVICES REPORT TO LEGISLATIVE MANAGEMENT. The department of human services shall provide a report to the legislative management before July 1, 2016, regarding the number of revoked obligor driver's licenses, the duration and effectiveness of revocations, including a comparison of the state's driver's license revocation with other rural states; and shall present a specific proposal that may limit the use of revocation of driver's licenses as a tool of enforcement."

Renumber accordingly

Date: 3/25/2015
Voice Vote # 1

2015 SENATE STANDING COMMITTEE
VOICE VOTE
BILL/RESOLUTION NO. 1111

Senate Judiciary Committee

☐ Subcommittee

Amendment LC# or Description: Hogue Amendment (1)

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Seconded By

Motion Made By Sen. Grabinger Sen. Casper

Senators	Yes	No	Senators	Yes	No
Ch. Hogue			Sen. Grabinger		
Sen. Armstrong			Sen. C. Nelson		
Sen. Casper					
Sen. Luick					

Total (Yes) _____ No _____

Absent _____

Floor
Assignment _____

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

Motion Carried.

Date: 3/25/15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 1111

Senate JUDICIARY Committee

☐ Subcommittee

Amendment LC# or Description: 15.8040.02001 03000

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Luick Seconded By Sen. Grabinger

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Hogue

REPORT OF STANDING COMMITTEE

HB 1111, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1111 was placed on the Sixth order on the calendar.

Page 1, line 7, after the semicolon insert "to provide for a report to the legislative management;"

Page 14, after line 8, insert:

"SECTION 15. DEPARTMENT OF HUMAN SERVICES REPORT TO LEGISLATIVE MANAGEMENT. The department of human services shall provide a report to the legislative management before July 1, 2016, regarding the number of revoked obligor driver's licenses, the duration and effectiveness of revocations, including a comparison of the state's driver's license revocation with other rural states; and shall present a specific proposal that may limit the use of revocation of driver's licenses as a tool of enforcement."

Renumber accordingly

2015 TESTIMONY

HB 1111

H/1
HB1111
1-13-15
Pg 1

Testimony
House Bill 1111 – Department Of Human Services
House Judiciary Committee
Representative Koppelman, Chairman
January 13, 2015

Chairman Koppelman, members of the House Judiciary Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to support House Bill 1111, which was introduced at the request of the Department.

Section 1

For children who turn 18 years old before graduating from high school, the obligation to pay child support for the child continues until the end of the month in which the child graduates from high school or turns 19, whichever occurs first, as long as the child is still attending high school and living with the person to whom the duty of support is owed.

It has become more common for high school calendars to extend into June rather than conclude at the end of May. In some cases, classes and exams end in May, but the commencement ceremony is not held until June. This has led to the question under current law: when does a child "graduate" from high school for purposes of receiving child support? In 2014, this question was resolved by district courts in North Dakota with different results. Some courts held that the duty of support expires at the end of the month when classes end. Other courts held that the duty of support continues until the end of the month during which the commencement ceremony was held. To be more consistent, the Department is proposing that the law be clarified to provide a clear point in time when a child support obligation expires. Section 1 identifies the

date the commencement ceremony is held as the point when the child graduates.

Sections 2 through 5 and 14

Sections 2 through 5 update current law regarding the periodic review of child support orders. Current law has not been changed much in this area for a long time, and dates back to when federal program requirements in this area were more prescriptive. Today, in recognition of the importance of conducting periodic reviews to make sure that the amount due is appropriate based on the current income of the obligor, current federal regulations focus on outcomes instead of detailed procedures. This allows the state to streamline the review process so it can be quicker and more responsive.

To promote efficiency and reduce delays, Section 2 (and corresponding changes in Sections 3 and 4) proposes that a review not be initiated unless the obligor requesting the review provides the necessary financial information along with the request.

Section 3 removes the requirement that a notice of review be provided in writing, since many of our customers today prefer electronic mail. This is consistent with a pending proposed change in federal regulation to promote electronic communication with customers.

Section 4 removes the requirement that Child Support assume the obligor's income has increased by ten percent per year if the obligor has not provided his or her income information. The same provision is currently included in the child support guidelines, and removal of this provision will allow the child support guidelines advisory committee to

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HB 1111
1-13-13
p33

consider whether that assumption is successful in promoting cooperation from obligors or if it leads to child support obligations that exceed the obligor's ability to pay.

Section 5 updates current law regarding the notice of the outcome of the review, in recognition of customer preference for receiving notices electronically and in recognition that each parent will receive notice of the court hearing during which Child Support's recommended change in the obligation will be considered.

Similarly, Section 14 repeals the following statute because it is duplicative of the court process and because the Department is proposing the ten-percent presumption be revisited by the guidelines advisory committee.

14-09-08.8. Motion for amendment of child support order - How made – Presumption when obligor's income unknown.

1. *Upon a determination by the child support agency, made under section 14-09-08.4, that it may or must seek amendment of a child support order, the child support agency may file and serve a motion and supporting documents.*
2. *The court may determine the motion based upon the files, records, and evidence received in consideration of the motion. If the child support agency certifies that, despite diligent efforts to secure reliable information concerning the obligor's income, the obligor has not produced such information, and if the obligor provides the court with no reliable evidence concerning the obligor's income, it is presumed that the obligor's income has increased at the rate of ten percent per*

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HB 1111
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year since the child support order was entered or last modified.

Section 6

This section amends alternate versions of state law in the area of medical support and withholding by employers to cover the cost of health insurance for the child. Existing law provides that income withholding for child support has priority over all other legal process, such as garnishments, against the obligor's income. This section would provide a similar priority for withholding for premiums needed to maintain court-ordered health insurance coverage for the child through the employer.

Section 7

The changes proposed in this section make pursuit of medical support authorized rather than required, in light of anticipated federal rules that will likely create cases where pursuit of medical support is not appropriate and the case can be closed. One of these situations is where the child is eligible to receive health care through Indian Health Services.

The changes proposed in this section also recognize that medical support may take a form other than health insurance coverage, such as cash medical support.

Section 8

The changes proposed in this section will reduce the amount due from an obligor for purposes of income withholding when the obligor owes arrears but the child now resides with the obligor under a court order. In such a case, since the obligor is providing for the child's daily needs, the ability to pay on arrears is often reduced.

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HB 1111
1-13-13
PJ 5

Section 9

Under the Affordable Care Act, the obligation to obtain health coverage for a child is closely connected to which parent claims the child as a dependent for income tax purposes. Therefore, for purposes of establishing and enforcing a parent's duty to provide health care coverage for the child, it is important to obtain a decision from the court on which parent will be allowed to claim the child as a dependent. This is often something that is already addressed in divorce judgments, so we believe this proposed change will not be difficult to implement.

Sections 10 and 11

These sections propose restoring language that was deleted in 2011 when the lien registry was created for all "titled" personal property. Since that time, we have learned that as a technical matter, vessels are registered rather than titled. The changes in these sections will restore previous law and ensure that vessels can be the subject of a lien for unpaid child support.

Section 12

This section is being proposed to reflect that arrears that are owed before a family starts to receive benefits under the Temporary Assistance for Needy Families program are no longer assigned to the State once the family starts receiving those benefits.

Sections 13 and 15

In September 2014, Congress enacted a new law mandating states enact the 2008 version of the Uniform Interstate Family Support Act (UIFSA). This mandate had been pending in Congress for several years. In

#1
HB 1111
1-13-15
PJB

anticipation of the mandate, North Dakota adopted UIFSA 2008 in 2009, but with a contingent effective date. Congress requires that UIFSA 2008 be in effect on July 1, 2015, so the contingent effective date needs to be replaced and an emergency clause is needed.

Chairman Koppelman and members of the committee, this concludes my testimony on House Bill 1111 and I would be glad to answer any questions the committee may have.

#1
HB 1111
1-13-10
Pg 1

Proposed Amendments to HB 1111

Page 3, line 6, remove the overstrike over "written"

Page 3, line 6, immediately after "notice" insert ", including electronic media,"

Page 9, line 23, remove the overstrike over "shall"

Page 9, line 23, replace "may take necessary steps" with "take the appropriate steps"

Testimony
Engrossed House Bill 1111 – Department Of Human Services
Senate Judiciary Committee
Senator Hogue, Chairman
March 4, 2015

Chairman Hogue, members of the Senate Judiciary Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to support Engrossed House Bill 1111, which was introduced at the request of the Department.

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HB 1111
3/4/15

consider whether that assumption is successful in promoting cooperation from obligors or if it leads to child support obligations that exceed the obligor's ability to pay.

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year since the child support order was entered or last modified.

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Section 7

The changes proposed in this section make a slight wording change to require Child Support to take steps to establish and enforce medical support that are "appropriate" rather than "necessary," in light of anticipated federal rules that will likely create cases where pursuit of medical support is not appropriate and the case can be closed. One of these situations is where the child is eligible to receive health care through Indian Health Services.

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Chairman Hogue and members of the committee, this concludes my testimony on Engrossed House Bill 1111 and I would be glad to answer any questions the committee may have.

#1-1
3/25/15

PROPOSED AMENDMENTS TO HB 1111

(Sen. Hogue)

Page 1, line 7, remove "; and"

Page 1, line 8, after "emergency", insert: "and to provide for a report to the legislative management"

Page 14, after line 10, insert:

SECTION 16. DEPARTMENT OF HUMAN SERVICES REPORT TO LEGISLATIVE MANAGEMENT.

The department of human services shall provide a report to the legislative management before July 1, 2016, regarding the number of revoked obligor driver's licenses, the duration of revocations, including a comparison of the state's driver's license revocation with other rural states; and shall present a specific proposal that may limit the use of revocation of driver's licenses as a tool of enforcement.

report if effective