

**1999 HOUSE HUMAN SERVICES**

**HB 1280**

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1280

House Human Services Committee

Conference Committee

Hearing Date January 20, 1999

Tape Number	Side A	Side B	Meter #
3	X		21.9 - End
3		X	0.0 - End
4	X		0.0 - End
4		X	0.0 - End
5	X		21.7 -End
5		X	0.0 - End
6	X		0.0 - End

Committee Clerk Signature

*Susann Lindteigen*

Minutes:

Rep. WESLEY BELTER, District 22, testified this bill changes our laws from an obligor model to a shared income model for the purposes of child support. I have received many phone calls on this issue. These individuals should be able to come to the legislative body and discuss the current laws in a divorce situation. I was disturbed by the reluctance on the part of the department of human services to look at this issue. When looking at the information, it didn't make any difference whether you were an income share state or obligor state like ND. The non-custodial parent seemed to be required to pay the same amount. On the surface, are we not sharing the responsibility of divorce on both parties? Many non-custodial parents are not doing

their share to take of their children like they should. There seems to be an unfairness about our present program. We as a legislative branch need to deal with this again.

Rep. WILLIAM DEVLIN, District 23, testified I will come down on both sides of this issue. I support the concept of income shares. It is fair. The department proved to me that its a fairness issue. Note starting on page 6, line 25 was added at my request. During the interim we had Mr. Nordwall look at a number of different states and how they handled the situation. The end result was not a lot of difference. Seventy percent of the court cases deal with divorces, child support and the related issues.

Rep. ROXANNE JENSEN asked about the fiscal note with corresponding decreases in other areas? Rep. WILLIAM DEVLIN stated there probably would not be offsets because of doubling paperwork and related salaries.

DANIEL BIESHEUVEL, Lobbyist for R-KIDS of ND, testified (Testimony attached).

Rep. WILLIAM DEVLIN asked that the exact quote of Chief Justice Gerald VandeWalle be provided to the committee.

Rep. AMY KLINISKE asked about enslaving one parent for the benefit of the other, i.e., non-custodial parent share is \$400 per month. It costs more than \$400 to raise that child. Isn't the custodial parent putting in \$400 also?

DANIEL BIESHEUVEL stated they are not assured of that. The problem is the custodial parent makes way more than the non-custodial parent. To be objective, we should look at what both parents make to determine child support payments.

Rep. BRUCE ECKRE asked what was the case about?

DANIEL BIESHEUVEL stated *Hendrickson vs. Hendrickson* was a case where a parent was paying child support and not receiving visitations and they were requesting a change in custody.

It was clear that the obligor system does not care what the custodial parent has, does not care what the child needs, it's just based on what the non-custodial parent can provide.

Rep. CHET POLLERT asked is this a general statement "simply refuses to work when they are very capable of doing that" or is it just one person or a percentage? DANIEL BIESHEUVEL stated he couldn't come up with an exact number but have cases where parents call with that concern. This would insure that employment would be sought to provide support for child instead of one parent paying all the bills.

Rep. ROBIN WEISZ asked how will this help the non-custodial parent in the pocket as far as costs when the income is still at the same amount when considering child support? DANIEL BIESHEUVEL stated it will have the perception of fairness. Sometimes you have to spend money to make people feel good but in the long run it will keep people from becoming deadbeat parents and leaving the state and completely abandoning their children. South Dakota did it. There first two years they had high expenses but now its holding its own.

Rep. CLARA SUE PRICE asked how many states have income shares? DANIEL BIESHEUVEL said 33 states, only a few are obligor, and others are a highbred model.

PHILIP PAPINEAU, Attorney, Fargo, ND, testified (Testimony attached).

SHARON PAPINEAU, Teacher, Valley City, ND, written testimony from WEPT and brochure submitted (attached).

LYNN CARLISLE, written testimony from WEPT submitted (attached).

BRUCE CARLISLE, written testimony submitted (attached).

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House Human Services Committee

Bill/Resolution Number 1280

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MARK A. LUHMAN and JOAN ENGLAND, written testimony submitted (attached)

MARK HAFNER, Beulah, ND, written testimony submitted (attached).

Rep. BRUCE ECKRE asked what are South Dakota's costs? PHILIP PAPINEAU stated he didn't know.

Rep. ROXANNE JENSEN asked if R-KIDS is a different or similar group? PHILIP

PAPINEAU stated similar. We went to a new organization and new name for the purpose of defining our roles more specifically. We are specifically a non-custodial parents' organization.

SUSAN BEEHLER, unpaid Lobbyist, R-KIDS, testified (Pictorial Demonstration). I have five children, am a custodial parent and support the bill on income shares model. The non-custodial

parent making far less than custodial parent would be affected by this change the most. The

child will benefit from both parents. The obligor method assumes the obligee is doing their part.

By disclosing my income, it won't harm my child. Two roadblocks - fear and money. If our

state can fund the Lewis and Clark celebration for two huge glorified outhouses on I-94, then I

think our state should rethink its priorities or find the money to implement the income shares

method. If the department is opposed to this income shares, why, in effect, do they use it already

for multiple family calculations? If the department also opposed this, is it because they don't

want the custodial parent to be involved? Many custodial parents have signed over their rights

when they've gone on welfare and they have no say in the proceedings. Would this then make

them have to be involved because they have to show their income? Custodial parent can't find

out where the non-custodial parent is.

DORENE RURUP, testified (Testimony attached).

LARRY RURUP, testified (Testimony attached). Suffering from arthritis, chronic fatigue, and anxiety attacks. Divorced and in the process of second wife, Dorene Rurup, filing for divorce.

Wished the state and laws would treat the non-custodial parent better.

#### OPPOSITION

SHERRY MILLS MOORE, Lobbyist, ND State Bar Association, testified (Testimony attached).

Rep. TODD PORTER asked about the multifamily standards used by ND where we look at the wife's income and the fairness to the child? SHERRY MILLS MOORE stated the multifamily situation only comes into play when the non-custodial parent asking for a reduction in support comes in and asks to please keep in mind I have new children when calculating the support.

When you look at how much should the new children cost and how much reduction should we give, then we need to know how is the intact family contributing, i.e., mom and dad both working then goes to formula which reduces the income so less support is paid to family number one. The multifamily formula was implemented because of the issue that second families were not considered as important as first families. The multifamily formula comes into play only when there are new kids and a reduction in child support is asked for. Rep. TODD PORTER asked are we as a state telling people to stay unwed and then are we telling people that are married and have a second family that its better to get divorced? SHERRY MILLS MOORE stated no. I don't think ND is saying you're going to get rich if you get divorced and your child will be better supported if you get divorced because they're looking for a way to give a reduction to family number two that remains intact. There are times when the income shares model where you have a very wealthy custodial parent and not wealthy non-custodial parent where there

would be more equity. Those are very rare. The custodial parent supports the child more, i.e., soccer fee, medical bill over and above the child support payment.

Rep. WILLIAM DEVLIN stated that 70% of the court cases are on child support. How can there be more litigation? SHERRY MILLS MOORE said I should have stated they would be a more lengthy dispute, fighting longer, not necessarily more families divorcing. Rep. WILLIAM DEVLIN commented on the regional support system so families don't take the next step and go to litigation. SHERRY MILLS MOORE stated there are far more disputes over numbers, deductions and expenses.

Rep. AMY KLINISKE asked about conversations with other states on the income shares models? SHERRY MILLS MOORE stated the Family Law Task Force did not spend much time on child support.

BLAINE NORDWALL, Department of Human Services, testified (Testimony attached).

Rep. Price asked Mr. Nordwall to return for additional testimony later because of time conflict).

BRAD DAVIS, Administrator, SW Area Child Support Enforcement Unit, Dickinson testified (Testimony attached). The main point I want to make if you're going to consider some income shares guidelines that the committee look at some of the comparisons and calculations to see what the differences are, where they're at, what matters and what doesn't.

#### NEUTRAL TESTIMONY

DOMINIC VOLESKY, Mediator, Bismarck, testified on a few points to be considered because of the unfairness of the situation, i.e., one custodial parent with \$4,000 cash available at the end of each month and a non-custodial with less than \$500. This is way below the poverty level. It is very harmful to the children because he can't even take them out for a hamburger. Another case

of custodial parent with \$60,000; non-custodial with \$13,000 where there are 4 children. Thus, the non-custodial parent has to live in poverty and can't show justice to his children.

BLAINE NORDWALL, continued testimony and discussed the perception of fairness issue.

He stated the income shares model measures the income of the custodial parent. North Dakota has a good system. Only North Dakota recognizes the "multiple family." The other states name the "first family first."

Rep. WANDA ROSE asked if non-custodial parent makes child support payments during child visitation. BLAINE NORDWALL explained the current rules and sometimes an adjustment is made but there is no specific amount. Advisory Board suggested an adjustment for extended visitations. Request to not tie visitation with child support issues.

BRAD DAVIS responded to Rep. ROXANNE JENSEN question that there are 45,000 child support cases in the state. He said there are a small number of cases where the custodial parent has a considerably higher income than the non-custodial parent.

Rep. CLARA SUE PRICE related the information from the conference in Montana on states income shares guidelines. North Carolina, Colorado, Montana, and Canada have the income shares model. I am proud of North Dakota. We are an ingenious state.

Rep. CAROL NIEMEIER asked if mediation is connected to the court system. BRAD DAVIS stated I'm not sure. Child support is not negotiable.



1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1280

House Human Services Committee

Conference Committee

Hearing Date February 2, 1999

Tape Number	Side A	Side B	Meter #
1		X	4.7 - 15.9
Committee Clerk Signature <i>Susann Lindteigen</i>			

Minutes:

Committee Discussion.

Rep. CLARA SUE PRICE discussed the fiscal note. The base is 3 hours per case. Used the income shares model. Leave it up to the judge's jurisdiction.

Rep. ROBIN WEISZ expressed concern on the fiscal note and if the bill passes every withholding order needs to be redone.

Rep. TODD PORTER moved DO NOT PASS.

REP. CHET POLLERT second the motion.

Further committee discussion.

ROLL CALL VOTE #2: 14 yeas, 1 nay, 0 absent

CARRIER: Rep. ROXANNE JENSEN

## FISCAL NOTE

(Return original and 13 copies)

Bill / Resolution No.: \_\_\_\_\_ HB 1280 \_\_\_\_\_

Amendment to: \_\_\_\_\_

Requested by Legislative Council

Date of Request: 01/13/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

This bill would change the method used to determine the expected contribution of child support by a parent to an income shares child support guidelines model, and would require the department to pay regional child support enforcement units for any amount expended as a result of this change. If this model is used, it is estimated the regional units would need an additional 8.33 FTEs and incur additional operating costs which are currently about 20% of salary costs.

2. State fiscal effect in dollar amounts:

	1997-1999		1999-2001		2001-2003	
	<u>Biennium</u>		<u>Biennium</u>		<u>Biennium</u>	
	<u>General</u>	<u>Special</u>	<u>General</u>	<u>Special</u>	<u>General</u>	<u>Special</u>
	<u>Fund</u>	<u>Funds</u>	<u>Fund</u>	<u>Funds</u>	<u>Fund</u>	<u>Funds</u>
Revenues:						
Expenditures:	-0-		310,147	602,050	327,980	636,666

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

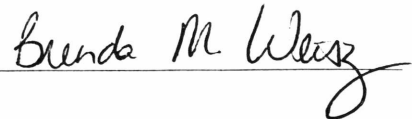
a. For rest of 1997-99 biennium:	-0-
b. For the 1999-01 biennium:	912,197
c. For the 2001-03 biennium:	964,646

4. County, City, and School District fiscal effect in dollar amounts:

	1997-1999			1999-2001			2001-2003		
	<u>Biennium</u>			<u>Biennium</u>			<u>Biennium</u>		
	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School Districts</u>
Revenue				912,197			964,646		
Expenditures	-0-			912,197			964,646		

If additional space is needed,  
attach a supplemental sheet.

Signed



Typed Name

\_\_\_\_\_  
Brenda M. Weisz

Date Prepared: January 18, 1999

Department

\_\_\_\_\_  
Human Services

Phone No.

\_\_\_\_\_  
328-2397

Date: 2-2-99  
Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1280

House Human Services Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Todd Porter Seconded By Chet Pollert

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
Robin Weisz - Vice Chairman	X		Ralph Metcalf	X	
William R. Devlin		X	Carol A. Niemeier	X	
Pat Galvin	X		Wanda Rose	X	
Dale L. Henegar	X		Sally M. Sandvig	X	
Roxanne Jensen	X				
Amy N. Kliniske	X				
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson	X				

Total Yes 14 No 1  
Absent 0

Floor Assignment Roxanne Jensen

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

REPORT OF STANDING COMMITTEE (410)  
February 2, 1999 12:05 p.m.

Module No: HR-21-1681  
Carrier: Jensen  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1280: Human Services Committee (Rep. Price, Chairman)** recommends **DO NOT PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1280 was placed on the Eleventh order on the calendar.

**1999 TESTIMONY**

**HB 1280**

# Fact Sheet: Child Support Enforcement Division

**What is it?** Child Support Enforcement is a joint state, county, and federal partnership to collect child support to ensure that children have the financial support of both their parents, to foster responsible behavior toward children, and to reduce welfare costs.

**Who does the division serve?** Our primary customers are the children for whom we collect funds for their support and medical care. We also serve custodial and non-custodial parents.

**What services are provided?** Working with the Regional Child Support Enforcement Units, we locate non-custodial parents, establish paternities, establish court ordered child support and medical support, and periodically review and adjust support obligations.

**Who can apply for services?** Either parent can apply for services. Applicants for TANF, Medi-caid, or Foster Care are referred to us for service.

**Are there fees?** We do not charge a fee for services.

**How is the division funded?** The federal government provides 66% of our budget; the state is responsible for the rest. The Regional Child Support Enforcement Units are responsible for their costs, generally relying on local property taxes.

**How much is collected?** Through the combined efforts of the regional units, the state office, and the federal government, our collections continue to increase at double digit rates each year. In calendar year 1998, we collected \$40.8 million, an 11.65% increase over 1997. In contrast, we collected \$12.1 million in 1990.

**Where does the money go?** Most of the amounts collected are sent to the families. A portion is retained to repay the federal, state, and county governments for TANF, Foster Care, and Medicaid payments made on behalf of families.

**What about the penalty?** The division is currently under federal penalty because we did not get FACSES, our Fully Automated Child Support Enforcement System, sufficiently developed to meet federal certification standards. The penalty, a percentage of the federal administrative funds available to us, was \$125,000 for 1998 and \$250,000 for 1999. We expect to become certified during 1999 and recover 90% of the penalty for the year, resulting in a total net penalty of \$150,000.

## **What does it cost to operate the Child Support Enforcement program statewide?**

The regional offices and state office spent a combined \$7.6 million in federal fiscal year 1998. Our appropriation request for the state office in the upcoming biennium, as approved in the Governor's budget, is \$6.3 million of which \$106,981 would be general funds.

**How many cases are handled?** We have about 35,000 cases, each of which involves at least three people — a child, the mother, and the father. These are primarily in-state cases, but by working with other states and other countries, we also serve people across the United States and internationally.

**What does the future hold?** We expect change in the future. With the continued emphasis at the federal and state level for people to be more self-sufficient, and the TANF imposed 60-month time limit, all levels of government and society will need to collect the amounts due for the support of children. The change in the immediate future involves bringing all case information into FACSES so that it can be certified. The guidelines, which are in the process of amendment, need to be finalized once the Legislature completes its work. The enforcement tool chest will also be revisited to ensure we are using all the appropriate tools to collect what is due. We will continue to work with our customers to ensure that we are providing prompt, courteous and accurate services.

Prepared January 1999 for the North Dakota Department of Human Services. For information call (701) 328-3582.

**House Bill 1280**  
**January 20, 1999**  
**1:15 pm**  
**Ft Union Room**

Chairman Price, members of the House Human Services Committee, my name is Daniel Biesheuvel, lobbyist for R-KIDS of North Dakota.

In the past attempts have been made to convert the obligor child support system to an income shared model. Arguments are plentiful on this subject.

Being the spokesperson for R-KIDS, I receive countless phone calls decrying the exorbitant support being paid to a custodial parent who either is financially better-off than the noncustodial parent, or simply refuses to work when they are very capable of doing so. The other complaint is imputing the obligor's income, while not reviewing the obligee's.

When the issues of exclusion of obligor's employer provided benefits or overtime and second jobs are brought forward, opposition always contends that the child will benefit from that income in a stable home. I also contend that in a stable home both parent's income would benefit the child. That is why the income shared model of child support is necessary. To bring into the picture the obligee's income, or lack of income.

In a recent ND Supreme Court case (Hendrickson v. Hendrickson, November 10, 1998) Chief Justice Vande Walle clarified what our present system is and is not interested in. I paraphrase, The North Dakota obligor system, does not care what the custodial parent provides, does not even <sup>KNOW</sup> what the child needs, but instead what the noncustodial parent makes.... Sad but true, we are enslaving one parent for the benefit of the other.

Thank you, and I will attempt to answer any questions.

**Addition to my testimony on HB1280  
before the House Human Services Committee  
on January 20, 1999**

This is presented to fulfil the request of committee members to get the exact quote from Chief Justice Vande Walle, in relation to his view of the obligor system of child support.

Hendrickson v. Hendrickson

Heard November 10, 1998, no ruling as of January 21, 1999.

In answer to an attorney's argument about needs of the child(ren) in determining child support...

**Chief Justice G. Vande Walle** stated, *"I think Judge (Benny) Graff's question is well put. Our model is an obligor model. It has nothing to do with the needs of the children. It has everything to do with the income of the obligor."*

(Taken from the hearing audio tape at the ND Supreme Court offices.)

Submitted by Daniel Biesheuvel, R-KIDS



# TESTIMONY OF PHILIP D. PAPINEAU

## RE: HOUSE BILL NO. 1280

January 19, 1999

### **Chairman Price and members of the House Human Services Committee:**

My name is Philip Papineau. I am an attorney from Fargo, North Dakota, practicing mainly in the areas of family law and bankruptcy. I have also been a "non-custodial parent" for approximately six years. My son is now fourteen and lives in Grand Forks.

I, and many others, have been very much encouraged by the fact that House Bill 1280 contains added language in Section 6 stating that in establishing child support guidelines the Department of Human Services shall consider the income of both parents, using an income shares child support guidelines model.

An income shares model of child support has certain advantages over an "obligor" model.

First, it simply appears to be more fair. Many obligors have expressed to me the feeling that they would not feel so persecuted, nor would they feel that the system was so one-sided, if the child support recipient was also under some obligation to provide some information - if they operated under a system of full disclosure.

Second, the system, as it now stands, operates as a convenient mechanism for harassment. As I have repeatedly seen and experienced, many divorced people simply do not like each other. Very often they hate each other. A system that allows the custodial parent to put a non-custodial parent through a review process, exposing his or her confidential and personal records for the world to see, without any corresponding obligation, is an invitation for abuse.

Third, many have argued that the differences in the outcomes of the two models is slight or non-existent. But the results are slight or non-existent only if they are designed to have that result. It is my opinion, and the opinion of a great many non-custodial parents, that an income shares model of child support should make a difference. In other words, it should work to create fairness in the system.

It is entirely possible to draft an income shares model of child support that has no real effect. However, as it stands now, a non-custodial parent who earns minimum wage will pay \$168.00 per month to the custodial parent, even if the custodial parent earns a million dollars per day.

Fourth, the operation of an income shares model allows the legislature and others charged with establishment of child support to track the needs of parents and children more closely. Perhaps it would also begin to provide the mechanism through which you could determine the actual cost of supporting a child.

South Dakota recently adopted an income shares model for child support. The comments I have heard, coming from South Dakota legal practitioners have favored the change and approve the results. Reportedly the adoption of the income shares model has led to fewer contested child support cases. I believe this is due a number of basic factors.

First, as stated, obligors perceive the income shares model to be more fair. Even if the child support level is exactly the same as under the obligor model, at least the obligor feels that both obligor and recipient have had to participate and to bare their incomes. An obligor will feel that a more dispassionate weighing and comparison has been accomplished, instead of an IRS type of audit.

Second, Obtaining a review becomes a greater task. Under our present system, a recipient may simply cause the motion for a review to be made, and then all of the burden falls on the obligor. The recipient is not even necessary at the hearing. The recipient may do this more often than once per year. In fact, the

review may be conducted every three years, free of charge by the Child Support Enforcement Unit. But under an income shares model, the recipient must also provide information and perhaps appear. This is a small burden if an increase in child support is indeed just, but it does provide some disincentive to bring frivolous reviews.

Third, this lessens the desire to abuse the system for purposes of retribution. The amount of hate in some divorces is amazing. I have heard so many custodial parents say things similar to, "By the time I am finished with him, he'll be lucky if he can afford to live in a doghouse."

Child support is not supposed to be a weapon of anger between ex spouses. It is supposed to be for the benefit of the child, and children suffer in wars between their parents. Continued fighting is not in any child's best interest.

If the custodial parent must participate, and justify his or her need for support in view of his or her income, then reviews based solely on enmity will be greatly decreased.

For all of these reasons I believe that an income shares model of child support will result in lessening the burdens faced by our courts and our child support enforcement units. I also believe it will result in fewer fights between parents, and thus, happier children.

Respectfully submitted

Philip D. Papineau  
1330 Page Drive  
Suite 202 A  
Fargo, ND 58103  
(701) 237-5573

January 20, 1999

Dear Members of the Human Services Committee,

My concern is regarding child support and visitation. Enclosed is a list of inequities between the non-custodial and custodial parents that was give to the Child Support Interim Committee, March, 1998. I am an educator and I feel, children are being affected by the laws because the system encourages the one parent to punish the other parent. Like one child said after Mom continually took Daddy to court, "I feel like my arms are being pulled out of my sockets." The custodial parent holds all the cards and the non-custodial parent is pushed against the wall. The judges in North Dakota do not enforce visitation, only child support and the children suffer traumatically. They love both parents. No wonder the news reports on tragedies like I heard this morning, a Texas father murdered his ex-wife, mother-in-law and then committed suicide, reason given, was the battle over child support. I feel if both parents were responsible financially and income-shares was encouraged, this would eliminate the tremendous battle between the parents.

I was saddened by the statement made in the Fargo Forum by Moore, "The custodial parent cannot move to a smaller home, reduce the insurance, lessen the utilities, cut back on phone service or fire the child care provider during visitation." In what way is the non-custodial parent any different from a custodial parent? The non-custodial parent is expected to provide a home and a room for his/her child when that child is living, not visiting, with the non-custodial parent. Does it matter where this child lives 150 to 200 days a year? I guess a car or a trashy apartment appears to be acceptable. There is no concern whether that child is safe or warm when he/she is with the non-custodial parent. It appears that a non-custodial parent is insignificant to Moore. How about the child? Ask how they feel about the living conditions in both homes. Remember, the non-custodial parent cannot move to a smaller home even though most have been forced to, reduce the insurance, lessen the utilities, cut back on phone service or fire, the child care provider when the child is with the custodial parent. In addition, the non-custodial parent is expected to support two homes without any consideration for the non-custodial parent's living or medical expenses. What a tragedy! There is no doubt that North Dakota has discriminated against the non-custodial parent and the child. This is not in the best interest of the child, but in the best interest of the state and the people working for the Child Support Enforcement Agency and North Dakota Human Service Department. All at the expense of the taxpayer.

The best interest of the child involves changing the laws so that it is fair for both parents.

Sincerely,



Sharon Papineau

Comparison of the Inequities of the Child Support Guidelines  
And Recommendations

## Non-Custodial Parent

1. Large Divorce Debt.
2. Unreasonable child support.
3. Pays transportation cost to pick up child.
4. Pays a good portion of daycare.
5. Pays half of medical expenses after insurance, but no control over child's medical treatment.
6. Usually Is unable to use child as a deduction.
7. Must provide a home for the child (even during visitations the child must sleep somewhere) without any concern for living expenses.
8. Wages are garnished - made to feel like a criminal-does not have the honor to pay his/her own child support.
9. Has to hire an attorney to enforce visitation or try to reduce child support due to a hardship.
10. No consideration for hardship

## Custodial Parent

1. Divorce debt considerably less - often none.
2. Receives child support including tax break.
3. Very little transportation costs if any.
4. May help some with daycare.
5. Pays half of medical expense after Insurance.
6. Usually has child as a deduction.
7. Must provide a home for the child. Receives child support plus payment of other expenses.
8. Receives payment from Clerk of Court. Indicates to both parents that custodial parent has all the Control and power.
9. Does not have to pay attorney fees to enforce support. Has the free help of the Child Support Enforcement Agency.
10. This parent enjoys harassing the

resulting in arrears. Due to arrears-some have been in court over 30 times explaining why.

other parent over and over again. Need not even participate in child support enforcement proceedings.

- |     |   |     |   |
|-----|---|-----|---|
| 11. | Possible jail if hardship continues.  | 11. | Power, control. Provides means to threaten obligor into submission.   |
| 12. | Possible revocation of licenses if hardship continues.  | 12. | Another tool to manipulate other parent. No such sanction for denial of visitation.   |
| 13. | Can lose all and has nothing.   | 13. | Custodial parent given legislative and judicial approval for any and all attempts to punish him/her as hardship continues. He/she deserved it-children cry. |
| 14. | Is mistreated by the legal system and it appears the attitude of the judges and supreme court is this parent is automatically a criminal.                                 | 14. | Power and control. Custodial parent enjoys seeing non-custodial parent suffer and made to appear to be despicable in eyes of his/her children.              |
| 15. | Any raise in salary automatically increases child support-can never get ahead or use the extra time to spend any money on his/her child. Does not have this privilege.    | 15. | More money for this parent and they are able to do fun things together including vacations. Nice memories.  |
| 16. | Low wages-Unreasonable child support results in this parent unable to make a living, no hope.   | 16. | This parent has the opportunity to enjoy life with his/her child at all times.  |
| 17. | Does not have the time to enjoy with the child due to working extra hours or overtime to hopefully try to meet the expenses of living and the unreasonable child support. | 17. | Able to enjoy time with his/her child with no extreme worries of how to survive and have enough for the next day.   |
| 18. | Does not have access to school records even though the other parent is required to keep this parent informed. Can not afford the court                                    | 18. | Has easy access to school records and has opportunities to be involved in his/her education. This parent usually refuses to share with the                  |

fees to enforce this obligation.

other parent about the child's activities in school.

- |  |  |
|--|--|
| 19. IS REQUIRED TO SUBMIT TAX RECORDS INCLUDING NEW SPOUSE'S INCOME. Joint filers must give new spouse's income information. A clear violation of his/her privacy when he/she has no obligation for the support.   | 19. THIS PARENT HAS ABSOLUTELY NO OBLIGATION TO SUBMIT HIS/HER INCOME TAX RECORDS OR ANY TYPE OF ACCOUNTABILITY.   |
| 20. Does not have the privilege to tuck his/her child in bed and be involved in his/her educational activities. Most non-custodial parents would love to trade places without even receiving any child support because they know the pain and they do not want to put their child in the middle. | 20. This parent has the wonderful opportunity to tuck his/her child in bed at night before he/she attends school the next day.   |
| 21. The non-custodial parent struggles daily to meet the needs of life and spending valuable time with his/her child. Many are barely able to survive.   | 21. Many times greed and a vindictive attitude invades this parent's life because the law encourages this type of activity. The child has become a profit instead of looking out for best interest of the child. |
| 22. Pays full child support during the summer when the child is with that parent.  | 22. Receives full child support when other parent bears the expenses during summer.  |

The Child Support Obligor's Model Is:

1. Inequitable
2. Primitive
3. Not clear-as it appears that most judges including the Supreme Court make up their own rules
4. Pits one parent against another

5. Puts the child in the middle
6. Forces the one parent into arrears

#### Results of the Child Support Obligor's Model

1. Depression for the obligor
2. Can't survive-no hope-suicide
3. Heart-Attacks
4. Child Abuse-Emotional Abuse
5. Parental Alienation Syndrome
6. Encourages abandonment and even kidnaping by one parent
7. Children resort to drugs, alcohol, mass confusion, and may become violent. What about the Arkansas and recently the Pennsylvania incident? The children involved in the criminal activities came from divorced and troubled homes.

It appears the only reason for the Obligor's Model Is:

1. Forces arrears, collections are up and matching funds are increased.
2. New offices, salary increases jobs, more staff for the Child Support Enforcement Agency and North Dakota Human Service Department. If non-custodial parents could have the honor to pay their own child support instead of being made to appear as a criminal right from the beginning, wouldn't this save staff, paper work etc.?
3. Children have become quite a profit for the state of North Dakota even though many lives have been affected and destroyed.

#### Recommendations:

1. Term should be shared parenting
2. Non-custodial and custodial parents should be required to submit records
3. Visitation needs to be enforced
4. Child Support made reasonable with the consideration of living expenses for both parents.



**Comments made by custodial parents to non-custodial parents  
and my responses.  
(First a short story)**

A friend of mine who is a social worker is a non-custodial parent of three girls, two of the daughters are teenagers, pays close to \$1000.00 a month child support including a large divorce debt. She is responsible for traveling out of town to pick up her daughters every other weekend. This mother lost custody of the children as the teenage daughters did not want to live with Mom because she has rules. They stated their wishes to the judge and the girls are now living with their Dad. He has a live-in girlfriend and a minimum wage job. Of course, this arrangement is attractive to the custodial parent as he doesn't have to pay any support and the girls can do what they want. The girls do not desire to have any contact with their Mother at all as they have been convinced that (Mother is mean) so they refuse to live with their Mom on weekends and summers. They have received quite a number of expensive gifts from Dad. Mom has not seen her daughters for six months except for the youngest daughter.

In the meantime, this non-custodial Mother has had to sell the family home, all her belongings, furniture, file for bankruptcy and she has lost her zest for life. You can't imagine the pain this mother has experienced. She asked me the question that many non-custodial parents have asked, "why should I go on living?" She went on to say, "I have lived for my children all my life and I would give anything just to be able to hug my girls again. I wish I could just die so I wouldn't have to face another day without seeing my daughters.

She has appealed this case to the supreme court which has cost her a great deal in attorney fees. She said even I win, I still feel, I can't force my daughters to live with me. They have made up their minds due to the continual brainwashing. We both agreed the system, the obligor's model and the unreasonable child support has totally devastated this family and the children. I believe, if both parties would have had to submit financial records for an income shares model, this custody battle would have been eliminated including the parental alienation.

**Devastating comments made by Custodial Parents to Non-Custodial  
Parents and children! Why-the system has given them the power.\***

(Ha, Ha, Ha, I spent the support you paid on my new husband instead of your daughter and there isn't a thing you can do about it as you do not even have enough money left to support yourself. Ha, Ha! I also know that you don't have enough money to hire an attorney. My fees are free so I can do what I want.) Sad, but it sure is fun to harass the other parent.

(If you don't do this or that, you will not get the kids this weekend. I will then tell the

children you don't love them anymore and I won't have to ever see you again. The kids will be sad for awhile but they will get over it as they now know, even though it isn't true, you don't want them. ) This type of brainwashing is called parental alienation, results are-severely emotionally disturbed children leading to criminal activities.

(You didn't pay the full support again so I told your son that you are a deadbeat and that you don't care about him. The Child Support Enforcement Agency will take you to court again and I plan to be there so I can see you suffer. It is so much fun to see you tell the judge why you don't have enough money to pay the full support.) Support was based on potential, not current earnings. This leads to severe depression for the non-custodial parent and possibly suicide and hurts the child.

(This is funny, you don't have enough money for gas to pick up your children and you are working overtime, I will tell the children you don't want to see them and that work is more important than them.) Unreasonable child support allows the custodial parent to continue brainwashing and it does not allow the non-custodial parent to travel and pick up his/her children for the weekend. Eventually the non-custodial parent is accused of abandoning his/her child as he/she has no other choice due to the overtime and unreasonable child support.

(I am getting \$1500.00 a month for child support. Finally, the sucker has to pay. I am going to take him to court again as I want my transportation paid, too, because I have to meet him halfway for dropping off the kids. He is going to pay dearly and I love every minute of it. ) I personally know that her 12 year old son is so angry that he has a tendency to destroy property. I have heard him beg his mother to quit hurting his Dad. What a great way to punish Dad and yet, hurt the children. I feel the system and the obligor's model has helped to enhance this attitude.

(If you even try to argue with me, I will slap a restraining order against you and you will never see your kids again. ) Again, this parent has all the power and knows it.

A brother called his sister and said, " I am backed against the wall and I am running scared. She is taking everything and requesting more. What am I going to do as I don't have anymore? I have given everything I possibly can give." A court appearance involved the ex-wife laughing and she said, "It is so much fun to punish you and the judge is on my side. You are not going to have a life by the time I am done with you." The sad part is her prophecy came true. This non-custodial parent never made his last court appearance. He died of a sudden heart attack. The doctor said, "This man died of a broken heart and the stress of the system killed him. I know about this situation because he was my **wonderful brother**. (I personally feel the income shares model would not have encouraged this Mother to continually punish the Dad as she knew she held all the cards. **A life was lost**.) Enough said.

*Sharon Papineau (Please ,we need HB 1280-Income Shares) Thank You.*

*312 Central Ave N*

*Valley City, ND 58072*

January, 1999

## The responsibilities of the Non-Custodial Parent:

Child Support & parents are paying 50% of their income. The custodial parent gets it all and the non-custodial parent including the child do not have anything to live on. How can this parent survive and be able to take care of his/her child when the child is living with the non-custodial parent? Full child support is even paid to the custodial parent during the summer when the child is **living** with the **non-custodial parent**.

Large Divorce Debt

Daycare expenses

Transportation Costs for picking up the child for a weekend & needs a reliable car.

Medical Expenses

Usually payment on arrears as judges like to base child support on the parent's **potential** instead of the **current** earnings as this increases legal activity for the system. **Many good parents are forced into arrears.**

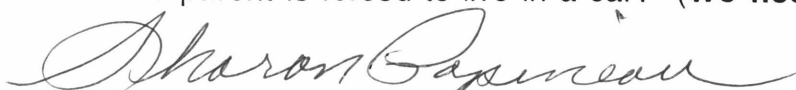
**Overtime** is not able to be used for arrears or spending quality time with the child, instead, the child support is **increased**.

Have to support **two** households-Remember the non-custodial parent is expected to provide a room for his/her child including fire insurance, utilities, telephone expenses, food, clothes, medical when the child is living with the non-custodial parent.

This parent has to pay all the **taxes**, no deductions for the children, the custodial parent has this benefit.

The non-custodial parent is responsible for paying his/her attorney fees when going to court and visitation is not being enforced by the system. The custodial parent knows the plight of the non-custodial parent and they take advantage of this situation.

A non-custodial parent earning \$1000.00 a month has to pay \$250.00 in child support, plus probably medical expenses, transportation costs, daycare, etc. in addition to the child support. The minimum rent is usually \$400.00 a month. This non-custodial parent has \$350.00 left after the child support and rent. This parent is still responsible for his/her own car, fire, life insurance, phone, gas, his/her own medical expenses, etc. It is impossible for this parent to have a life especially with his/her children. The only alternative is to live in a car, trashy apartment, or if there is any family left, this parent will be forced to live with his/her parents, etc. There have been non-custodial parents that lived in a car due to unreasonable child support. How do you think the child feels when one parent is forced to live in a car? **(We need Income Shares)**



Honorable Chairman Price and members of the Committee,

My name is Lynn Carlisle and I am here to testify in favor of House Bill 1280. But first I would like to take this opportunity to thank representatives Devlin, Belter and Senator Warner together with anyone else who had a hand in the drafting of this bill. The non-custodial parents of North Dakota thank you for listening and wanting to help us. It is my opinion that anything that makes the child support order more equal for both the custodial and non-custodial parent is a step in the right direction. Both parents should be financially responsible for the support of the child, not just the non-custodial parent.

I realize that the custodial parent has the child more often but that doesn't have to be the case, custody could be shared on more of a equal basis. Even though the custodial parent has the child more often, if the non-custodial parent is paying more than \$300.00 a month in child support, they are paying for everything. It doesn't cost that much to support a child not for the basics anyway. If the parent wants the child to have all the extra things in life, great if they can afford it, give it to them, but why expect the non-custodial parent to pay for everything. We want to be able to give our children things when they are with us too, why should we have to pay the custodial parent to take care of their own child?

If we go to the income shares model of child support at least both parents income will be taken into consideration for figuring child support, that's the way it should be. When the federal government came up with the guidelines for the states to follow one of the first things in there was that both parent should be equally responsible for the support of the child. What happened in North Dakota? Why didn't we follow that and implement an income shares model then? Because the custodial parents didn't want it? of course not!! They don't want the hassle of having to take in their taxes or prove their income everytime they want a review. Why should they when all they have to do now is ask for a review and everything is done for them. That is why, in states that have income shares, they have less requests for reviews and much less work. Most people aren't so willing to ask for a review is they have to furnish the information also. Yes there will be more work and more expense to begin with but it will even out in the long run with fewer reviews.

The income shares won't make a big difference in everyone's case, but it will in some and it will defiantly be more fair to both parties and in being fairer to both parties you are also being fairer to the children. Remember the children have two parents not just the one they live with most of the time. And they love and need both of them.

Thank You,

A handwritten signature in cursive script that reads "Lynn Carlisle". The signature is written in dark ink and is positioned below the typed name "Lynn Carlisle".

W.E.P.T. is a support group for non-custodial parents. But it is more. It is also a legislative action group working to change the laws that effect non-custodial parents. It also works to change attitudes. We are not dead-beats or losers. We are caring parents. We demand that we be treated with respect by the courts, the legislature and the public.

Please call for information and come to our meetings. You'll find others who have experienced the same frustrations you have. We will try to help and we need your help

**CHANGE CAN BE ACCOMPLISHED!**

**W.E.P.T. MEETS  
REGULARLY, ONCE PER  
MONTH. PLEASE CALL A  
NUMBER BELOW FOR  
INFORMATION ON MEETING  
TIMES AND PLACES. YOU  
ARE MORE THAN WELCOME.**

Call:

Phil- 237-5573

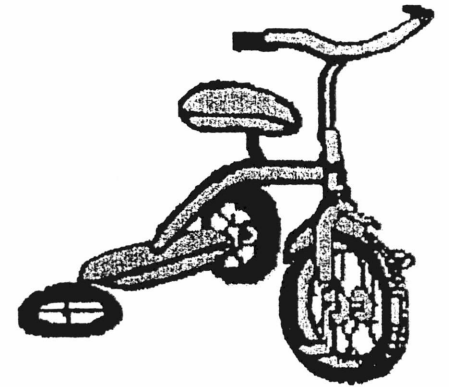
Terry - 291-1429

or write to:

W.E.P.T.  
c/o Philip Papineau  
1330 Page Drive  
Fargo, ND 58103

**W.E.P.T.**

**WE'RE ESSENTIAL  
PARENTS TOO!**



**AN ORGANIZATION OF  
CARING, NON-CUSTODIAL  
PARENTS.**

## Who we are:

We are a group of people who all have an interest in the concerns of caring, non-custodial parents. We are both men and women, parents and grandparents, and others who share our concerns.

If you share the concerns of Non-custodial parents you will feel comfortable joining us.

## Our Concerns:

W.E.P.T. believes:

1. Children need and deserve frequent and meaningful contact with both parents.
2. All of our children, whether in our custody or not, deserve our support.
3. Meaningful contact with the non-custodial parent

(visitation) is just as important to a child as child support.

4. Both parents are responsible to support and care for their children, emotionally and financially.
5. Custodial parents have an obligation to account for received child support.
6. Out-of-state or long-distance moves away from one parent are in the best interest of the child only rarely.
7. The "best interests of the child" is not a gender issue.
8. Children should not be used as weapons by their parents.
9. A "non-custodial" parent is

not necessarily a "dead-beat" parent. Often non-custodial parents are as involved as they are allowed to be.

## Our Goals:

It is our goal to promote changes in the laws that now frustrate and anger non-custodial parents, treating them as only walking check-books and ignoring their value as parents.

It is our goal to educate the populous about the inequities now present in our system.

It is our goal to provide a place for non-custodial parents to meet and learn ways to help themselves.

It is our goal to change attitudes about non-custodial parents in everyone!

Honorable Chairman Price and members of the Committee,

My name is Bruce Carlisle and I am from Fargo. This is my testimony in favor of House Bill #1280. It is my opinion that an income shares guideline would be a vast improvement over the current one sided Obligee-Obligor model and would benefit both custodial and non-custodial parents.

I am a non-custodial parent who currently has temporary custody of my 12 year old daughter. I have paid to support my daughter from the time she was taken from me by her mother until she came to live with my wife and me. The amount has varied from a low of \$400.00 a month to a high of \$823.00 a month. I am currently receiving NO support from her Mother even though I have had my daughter since June of 1998. She and her husband claim they can't afford it.

I feel with a fair income shares model it becomes possible for both parents to become responsible for the welfare of their child not just one parent being run into the ground and financially ruined, and in some cases being driven as far as suicide in the name of political correctness. With income shares both parents become responsible parents, both parents will be allowed to live more respectable lives. Being a parent whether custodial or non-custodial requires one to supply housing, food, clothing. This means, whether the child lives there or not. An obligor working two or three jobs and living in his or her car because child support is too high is certainly not able to provide any of this. The child suffers. The child suffers when an obligor is put in jail for being unable to keep up with too high support payments. The child suffers when the obligor can no longer take the stress of having to live in poverty because of too high support payments takes their own life.

My wife has figured out the cost of having my daughter with us. Not counting housing, heat, lights, etc. (which we would pay anyway) we are spending about \$300.00 a month. This covers food, clothes, and school supplies. It doesn't take \$800.00 a month to raise a child. Children don't worry about money, this is the realm of adults. Children want and need their parents.

Income shares isn't going to change things for everyone, but it should level the field and help parents be parents which in turn helps the children. Aren't the children what it's all about in the first place?

The cost? I have heard lots of complaints about the cost of changing to income shares. I believe most states going to this model found that it was cheaper to administer in the long run because of fewer requests for reviews. I would imagine it keeps the honest ones honest when both parties are required to submit income reports.

I would like to take this opportunity to thank Representatives Belter, Devlin and Senator Warner and everyone else involved with this bill for being open minded enough to know that something needs to be done and then doing it. Thank you.



1/19/99

The Honorable Committee Chair Clara Sue Price  
And House Human Services Committee members

My wife and I are writing to you concerning HB 1280: the implementation of an income shares in North Dakota.

You have recognized the disparity of placing the full financial load on the noncustodial (obligor) parent and none on the custodial (obligee) parent. At this time, the politically popular mode of operation is to expect the noncustodial (obligor) parent to cover everything. This does not take into consideration that a noncustodial parent must also bear the expense of food, shelter, and possibly childcare for this child/children when they live with that parent. A custodial parent not only receives a child support check, but can also earn their own paycheck.

How would you explain to your child who has come to live with you during court sanctioned times that you are unable to see the circus or go to Dairy Queen because of no money? You can't because your child support check has strapped you to the point that a luxury is putting one can of water in the canned soup instead of two. A noncustodial parent's paycheck is stretched to cover their own household and wherever the child lives.

It is time that more financial responsibility be placed on the custodial parent. Two people created this child or children; two people should be held financially responsible.

Income shares has worked in South Dakota and can work in North Dakota. Give North Dakota's noncustodial parents a chance and push the income shares model.

Thank you



Mark A. Luhman and Joan England (member of W.E.P.T. We're Essential Parents Too)

1517 12 St. N  
Fargo ND 58102



Brief Prepared for Testimony for the 56<sup>th</sup> Legislature  
Child Support Guidelines  
Human Services Committee

Mark Hafner

My name is Mark Hafner and I am from Beulah ND where I have lived all my life. I am married to Denise and we have a 6 month old son, Josten. I work for the Coteau Properties Company and Denise works as a transcriptionist at Missouri Slope Clinic in Beulah.

I was divorced from my first wife in 1991. Her name is Brenda and we have two daughters Kara now 13 and Deanna now 11. They moved to Tehachapi, CA shortly after our Divorce to live with her parents there. Brenda was originally from Hazen, ND and had lived in ND all her life but her parents had moved to CA shortly after we were married.

I will try to show in this brief, different parts of my divorce story and will tie them into different aspects of how legislation being looked at affects these situations.

HB 1346 Mandatory Mediation.

When we, meaning Brenda and myself first got divorced it was agreed that we did not want a big fight in court that would in turn hurt the kids and cause more problems between the two of us. Although we both had attorneys, almost all aspects of our divorce were agreed to between us. This aspect of our divorce went fine and seemed to be working fine until, and this is the problem with this idea, the spring of 1998 after she found out Denise was pregnant she decided she needed more money for Child Support and filed for such. I had assumed when our Divorce was settled and everything had been agreed to that this stipulation was binding and would be for the term of the children's eligibility. This was as I found out later not to be true. Child support as I found out can be changed later even though she knew what the guidelines required at the time of our Divorce and she admitted to knowing in court in October, under oath. My recommendation for this bill is that it would pass with the addition that this is a legal obligation by both parties and cannot be broken in a court of law or by the Child support Enforcement Unit at a later date for either persons purposes.

HB 1280 Child Support Income Shares Guidelines.

I recently went to Court for a raise in Child Support brought on by Brenda by the Child support Enforcement Unit. A few things should be mentioned here about incomes for the benefit of this bill. I work for the Coteau Properties Company and work a 40 hour week Guaranteed with a base salary of \$50386 a year. Denise works 30 hours a week at her job and will have a base salary of \$10875. As noted before we have a child from the two of us. In our case Denises salary is now figured into the basis of my support for my two Daughters. By the guidelines now in place I am paying Brenda \$991 a month in support for two children I see once a year. Brenda currently works a 40 hour a week job and is paid about \$7.50 an hour for a base pay of \$15600. Brenda is remarried and her husband works as a civilian aircraft mechanic at Edwards Airforce Base making over \$50000 a year. They are also still living with Brenda's parents who are both claiming disability and don't work. Add their incomes up and they make about \$65000 a year plus the \$12000 I send them a year. Living with Brendas parents, she only pays half the expense of the household and does not require any day care expenses. For the purpose of my case and all other cases I strongly believe that Shared Guidelines should be in place no matter how large the cost to the state, even though it would not be as large a cost as previously testified, because it is the right thing to do to fix a very unfair practice to the obligor of the children.

### HB 1028 & 1029 Employee Benefits, Overtime and Second Job Exclusions.

Up until July of 1998 overtime at Coteau was very easy to come by for those that wanted to go outside their own departments to work it. Up to that point I was working overtime in my own department as well as picking up overtime in other departments. The day I am writing this is January 31, and from this day back to July 17, 1998 I have not worked any overtime, in any department. Although I am willing to work overtime it is not available anymore. Why is this important to know? When I went to Court in October I entered evidence that my income for 1998 would fall far short of what I made in 1997 and would even be less in 1999. The attorney for the Child Support Enforcement Unit turned my numbers around and added and subtracted and probably multiplied to come up with her own figures to suit their own needs. She came up with numbers showing that I would earn \$57853 in 1998 and 1999 and claimed that my figures were and I quote [Speculative and self serving to better my own interest] un-qoute. Recently I just received my W-2 for 1998. During court I testified under oath that I would make \$55000 in 1998. Guess what. My total wages for 1998 were \$54892.17. I also testified that in 1999 my wages because of the lack of overtime would continue to drop and with a possible raise in March of that year I would probably make \$52000, with again the same response from the Child Support Enforcement Unit. This figure will be what I will make this year and I will more than likely be back in court to have my case refigured in July. I leave this issue with these two thoughts, with my wage set at \$52000 which is a true and accurate figure I would not have to waste the courts time to reassess my support and the children would have been fine. And second who is being speculative and self serving to better their own interest. Please pass this bill on.

### SB 2039 Child Support Guidelines and Extended Visits

My two children, Kara and Deanna live in CA with their mother, new dad and Grandma and Grandpa. I have visitation rights to see them for 6 weeks in the summer in 1999 and 2000 and 8 weeks from then on. I am required from the before mentioned agreement to pay all travel expenses to and from Ca to ND. These travel expense add up to more than \$1500 and are figured into my Child Support, but only amount to a deduction in support of \$15 a month. Being my children live in CA, when they step of that plane what they bring with them in their one small suitcase apiece is what they will have for the time they are with us. We can't just drive back to moms later and pick something up. We will have to by whatever they need to get by with, and in most cases their mother does this on purpose just so the girls will get new things. Also now that my girls are here we now have to pay daycare, which as noted she doesn't have to pay anyway, we now have to run all over to keep them entertained, feed them, etc. Which are all things she no longer has to do. I strongly urge the passage of this bill.

### Required Benefits

As mentioned above I am required to pay almost \$1500 in travel expenses to get my girls back to CA. Although \$1200 of this is deducted in my Child Support it only comes of my net monthly income and gets me a \$15 break on my support. Spend \$1500 get a break of \$180. I am also required By my divorce to provide Life Insurance policies on both Kara and Deanna for \$25000 apiece that would also accrue interest and be made available to them when they go to college. I am also required to have \$100000 life insurance policy with the same effect that lists Kara and Deanna as beneficiaries. These three policies are required by divorce and cost me \$100 a month with no consideration on my Child Support. In reality then I am paying \$991 for support plus \$225 for travel expenses and insurance with a total of \$1216. Someone else whose children lived nearby and was not required to have Life Insurance policies which by the way is not a requirement would then only be paying \$991. This is a good bill and should defintely be passed

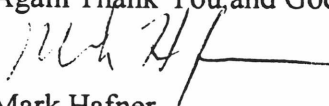
SB 2197 False allegation of Domestic Violence

As noted before I just finished going through courts on Child Support and myself going for more visitation. On the issue of more visitation the judge did rule in our favor for more visitation. My X- wife did not like this. After everything was completed and I thought over for now I received in the mail a copy of a letter sent to the judge from her attorney disagreeing with his finding for longer visitation and claiming Domestic Violence In our previous marriage and my current marriage. No mention of Domestic Violence was ever mentioned in our first divorce or in the courtroom while arguing case points for longer visitation. The reason being that it could never be proven by her because it didn't exist and was only made as a allegation in a desperate measure for a change that I could now not defend myself against. This Bill will not keep people that are involved in a domestic situation from reporting it but it will deter false accusations from being made or at least give the accused the protection that they need.

In closing I would like to say that I know these are only a few of the bills being looked at but I think they are all a good start to Make the Child Support System more fair than it is. It would eliminate most of the complaints, problems and injustices brought on by a system that is totally for the well being of the custodial parent with no rights at all to the non-custodial parent regardless of how good a parent they are. I also firmly believe that this system of Child Support Enforcement that is in place only affects those people who are as good of parents as they can be by continually going after these people for more and more things while those people who could care less about their kids, continue to not support their children and never see their children continue to be looked over, pampered to and basically don't have any thing happen to them. I also believe the Department of Human services and especially the Child Support Enforcement Units need to learn to be more fair and understanding in their methods and should not be speculative and self serving just to fit their needs.

I Thank You for taking the time to read this description of my case, how these bills affect me and how I feel about them and this system in North Dakota. I have tried to keep as much of my negativity about this system as it is now, out of this description and in no way mean to offend anyone if it did. I believe North Dakota is an excellent place to live and raise children and I know that you people are doing your best to make it a fair and equal place for all people to live.

Again Thank You, and God bless you and your work here,

  
Mark Hafner  
5840 4<sup>th</sup> St NW  
Beulah ND 58523

Jan. 19, 1999  
pg 1

To: Clara Sue Price, Chairman

And members of House Human Services Committee:

My name is Doreen Rurup. It is a rare opportunity that I would be able to travel to Bismarck to speak to you, as I have a full time job and am a full time mom.

I have read through House Bill No. 1280. These are my opinions after reviewing this bill.

I have a hard time understanding how suspending occupational or professional licenses or suspending motor vehicle licenses for nonpayment of child support would be beneficial to anyone - including children. If a parent were to lose their license, how would they be able to pay child support? I believe this would only result in obtaining a lesser paying job in the meantime, falling further behind on child support, being stuck in court, shouldering the expense of re-taking tests or classes to regain the license, etc. Also, without a vehicle how does the parent get to work? How does the parent travel to see his/her children? This does not seem logical to me. It not only hurts the parent paying support, but it hurts the children as well.

It seems to me these are unfair ways to punish the non-custodial parent. Life holds many uncertainties. What if there are valid reasons for not paying child support - such as disabilities or other unpreventable hardships?

Also, if there are penalties for nonpayment of child support, what penalties should be imposed for interfering with visitation, or alienating the noncustodial parent's relationship with their children? Are these issues not just as important as child support? Parents not being able to maintain a relationship with their children has a definite

negative emotional impact on children.

As far as an income shares guideline for child support, I am very much in support of this. It is far past time for a change! I see this as a step in the right direction. After all, we are fast approaching the year 2000, and it is time the laws reflect this.

It is past time to acknowledge the fact that there are two parents financially responsible to care for their children.

Currently the non-custodial parent's income has been used as the guideline to base what child support will be. There seems to be no limit on what it costs to raise a child. Depending on what the non-custodial parent makes, the dollar amount can be \$50.00 per month, \$800.00 per month to raise a single child - to whatever. Currently the more a non-custodial parent makes, the more they take. In the meantime, the custodial parent is not required to account for how the money is spent, and there is no concern as to whether the non-custodial parent can live on what is left over. Let alone if he/she can afford to even spend time with the children after child support is paid. So what is happening under the current system? Let me speak from my experience.

I married a non-custodial parent. We have been together for nine years. During the course of that time, ~~that~~ changes that have occurred have done far too little to help the non-custodial parent, but most importantly the children.

The current system: ① promotes hostility between the custodial and non-custodial parent. This affects the children the most. They can feel the hostility and

suffer the consequences of that tremendously. ② The non-custodial parent is left feeling hopeless. He/she is expected to pay ridiculous amounts of child support, so much they can not afford to exercise their "visitation" rights. This also affects the children, they see the non-custodial parent much less. As a result, they must feel they are not important to them. ③ The current system creates terrible hardships on the non-custodial parent and this affects the families of second relationships. These hardships are not only limited to financial, but include emotional, physical, mental hardships as well. ④ Children of second relationships suffer. They are not considered equal to children of first relationships. The system tells you that. ⑤ Let's not forget the wife of the second relationship. I am that person. I have suffered the wrath of the child support system in many ways. Especially when my husband became disabled. The court did not care that I was strapped with trying to pay child support, health insurance premiums for the step-children and trying to support my family as well. What made me most angry through all of this was that my son was not taken into consideration. Yes, this created much hostility. It did not help me to hear the judge's solution to our financial hardships was to file for bankruptcy!

How do I retaliate against North Dakota for it's child support system that is now in place? My own personal way to tell North Dakota I do not appreciate their anti-family laws is to purchase all my living necessities from Minnesota, and to ~~do~~ do all my business in Minnesota, if possible. I also have made up my mind that my son will not live in North Dakota if at all possible and I

1994

will strongly encourage him to live in a state that treats non-custodial parents in a more equitable manner. As for the Judge's advice to file for bankruptcy because of financial hardships, I had a better solution. My solution was to get out of the relationship entirely in order to remove my son and I from harm's way. I filed for a divorce.

I have enclosures dating back to 1990, concerning child support and child custody problems. Nearly a decade has passed and the problems are still there. These problems are not going to go away without positive changes in current laws. This should tell us something. Please support the income shares guideline.

Thank You for listening.

Dorlene Ruvup

# DAD

## DADS AGAINST DISCRIMINATION

Support Group for Non-Custodial Parents

Monday, October 29, 1990

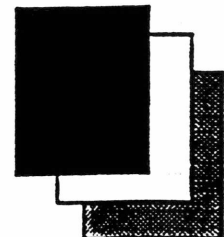
7 p.m. in the Comstock Memorial Union Room 223  
Moorhead State University  
Moorhead, M.N.

(sponsored by Non-Traditional Student Association)

- \*Are the new child support laws destroying your future?
- \*Have the courts made you just a "visitor with your own children?"
- \*Are you working 60 hours a week just to make child and spousal support payments?
- \*Has quitting your job, filing bankruptcy or just giving up crossed your mind?
- \*Do you live in sub-standard housing while your ex is maintaining the same high standard of living?
- \*Does your lawyer and the judge seem to be for the other side?
- \*Has the legal system violated your rights?

If you can answer "yes" to any on these questions, you need to attend this meeting. This is the time to take a stand on divorce and its implications. For more information write Ralph Bakkila, P.O. 10201, Fargo, N.D. 58106 or call 233-7531 Ext. 362 or Call Larry Rurup, 280-2648.

Public Hearing-Monday, November 5, 1990 at the  
Century Theatre Room 346, North Dakota State  
University, Fargo, ND.





FAIR

TUES  
FEB 18, 1992

# Legislators ready for assault on child support problems

St. Paul (AP)

Custodial and non-custodial parents will face off during the 1992 legislative session as they continue their perennial struggle over child support and access to children.

Two bills will be considered by lawmakers, one introduced by Sens. Linda Berglin, DFL-Minneapolis, and Richard Cohen, DFL-St. Paul, and another by Rep. Terry Dempsey, IR-New Ulm.

Although the bills contain a lot of side issues, the focus during this short session is expected to be on making sure the children of divorce have adequate financial support.

The Berglin-Cohen bill introduced last month would raise the monthly net income cap on which support payments are based from \$4,000 to \$10,000 and would extend the child support age to 23 when children are in college.

It also would require the non-custodial parent to buy life and disability insurance for the custodial parent and prohibit reduction of child support based on the needs of the non-custodial parent's other children.

Willfully failing to pay child support when able to pay would become a misdemeanor, punishable by 90 days in jail, and errant parents would lose their hunting, fishing, boating, driver's and occupational licenses.

R-KIDS, a group representing non-custodial parents, is making its top priority killing the Berglin-Cohen bill, said Sheryl Lopez, the group's chairwoman and founder.

But R-KIDS won't know exactly what it is up against until this week, when the Berglin-Cohen bill will give way to a new bill hammered out last week during negotiations among four key DFL players in the family law area: Berglin,

who chairs the Senate Health and Human Services Committee; Cohen, chairman of the civil division of the Senate Judiciary Committee; Rep. Kathleen Vellenga, DFL-St. Paul, chairwoman of the House Judiciary Committee, and Rep. Jean Wagenius, DFL-Minneapolis, vice chairwoman of the committee.

Enforcement of child support is expected to remain a key focus of the new bill, but the idea of taking away hunting, fishing, boating and driver's licenses may have been eliminated.

R-KIDS favors a bill introduced by Dempsey, who practices family law, that contains penalties for custodial parents.

Dempsey has asked for hearings on the measure that would prevent custodial parents from moving more than 100 miles from the non-custodial parents unless they could show that there were "compelling" reasons and that the move was in the best interests of the children.

Custodial parents also would have to account for their child support dollars and would face penalties if they didn't use the money solely for the child. They could be fined — or could even lose custody — if they failed to follow the terms of their visitation agreements.

Dempsey says both sides should be hit with sanctions if they violate visitation agreements.

Dempsey also has introduced a bill that would turn the current child support system upside down, replacing "custody" with "shared care" and giving both parents equal rights and responsibilities regarding the child. They would pay support according to the amount of time spent with each child.

To: Clara Sue Price, Chairperson  
and House Human Service Committee 1/20/99

I'm Larry Rurup and I traveled to Bismark today to give my support for House Bill No. 1280. This approach of using a income shares child support guidelines model is long overdue. More and more states are using this model. It brings accountability and responsibility to both parents for the first time in our states history. This is historic legislation in which I can receive piece of mind in the event my three sons should someday become parents themselves.

It's a starting point, its the foundation to which would bring individuals into the process. Anything less is unacceptable to me and on behalf of my sons. Without this legislation I'll strongly encourage my sons to leave the state to live in states which have this model. I would not wish to see my sons attend a N.D. college until a income shared model has been implemented.

I had lived in N.D. for 20 years until moving to Moorhead about 5 years ago. I didn't care to live in a state that I viewed as anti-family. Nor do I spend money in N.D. if I can purchase this item in MN.

If N.D. implements this legislation I feel I can consider changing my positions in several areas of my personal life.

If I had a daughter it would bring reassurance that if they entered a relationship with a non-custodial parent, hopefully their lives wouldn't have to be so miserable. The reason I suggest men will continue to be far and away the non-custodial parents is I've seen virtually no change in the last 10 years by judges in awarding men custody. Men's roles have changed greatly from those of their fathers and grandfathers. Hopefully the Dept. of Human Services could provide statistics as this would also influence how I felt about my son's living in N.D.

As far as laws to get tough on non-custodial parents when they are behind in child support, I'm against this in most cases. If penalties are in place, then I only feel it is reasonable and responsible to put tougher penalties on custodial parents for issues that are equal in importance to the non-custodial parent. It is far too common to find yourself behind in child support beyond your ability to pay for reasons that you have no control over. This could be a result of something that has changed in your life, but many times it's the result of unfair decisions by judges which almost always go against the non-custodial parent.

Other reasons could have been Child Support Enforcement policies, or Dept. of Human Services policies. And last, legislators could change laws which destroy our ability to provide a living for ourselves, and our new families. Penalties that take away a person's ability to provide a living for themselves, only hurt ~~their~~ non-custodial parents' chances to pay any past due child support. Also, any penalties that could further limit interaction between them and their children is wrong.

There seems to be no shortage of tough judges to deal with non-custodial parents. Let them try to collect past-due money in hopefully more traditional, and morally correct approaches with non-custodial parents!

I look forward to providing information to and meeting our legislators in the future. I hope you continue to introduce legislation such as House Bill #1280.

**STATE BAR ASSOCIATION OF NORTH DAKOTA  
HOUSE HUMAN SERVICES COMMITTEE  
HOUSE BILL NO. 1280  
SHERRY MILLS MOORE**

I am Sherry Mills Moore, a volunteer lobbyist for the State Bar Association of North Dakota. The Association wants to point out the concerns this bill creates.

Before doing so, however, I think it would be helpful for you to know that I am and have been an attorney in private practice in Bismarck for the last 20 years. While my practice is varied, the vast majority of my time is spent handling family law cases, and I do so by preference. Family law is an extremely important area of the law that allows me the opportunity to work with all kinds of people, with all kinds of problems, and to influence a branch of the law that deals with that which is most dear to us all -- our families. I also the Past President of the Family Law Section of the Bar Association, chair of the Family Law Task Force and served with Senator Traynor and Representative Glassheim on the child support guideline advisory committee to the Department of Human Services resulting in the most recent proposed changes to the guidelines, as well as on the advisory committee in 1995.

My primary concern with this bill is the requirement that the child support guidelines be based upon an income shares model. Perhaps some more background will better illuminate this concern. As a part of my practice I represent mothers and fathers and grandparents in every configuration, that is, custodial parents, noncustodial parents, obligors, obligees, those who are undergoing a divorce, a separation, a modification of child support, and support outside the marital arena. Most of the people I represent would be subject to this bill and its provisions because they are dual income families. It is not mere theory to them. They will need to live with it. As I make my remarks, should you concur, you may wish to consider that I may well again have reason to wish I had not spoken and you had not listened to me. I have and will have clients who might benefit from an income shares system, as well as be hurt by them.

The basic concept behind income shares is commendable -- to create the most equitable system of child support possible. Sometimes the most laudable goal has to be subrogated to practicality. The income shares model increases the opportunities for dispute. Family litigation, perhaps more than any other litigation, is absolutely prone to fractious, nitpicking, dispute over minutiae. People embroiled in divorce need more certainty and less expense; more avenues for resolution and fewer arenas for dispute. If you pass this bill you may be sacrificing peace of mind for the appearance of equity.

### Simplicity and Consistency

We have had an obligor system firmly in place for about seven and one-half years. I am concerned that by scrapping it we will be left with less not more. Under our current guidelines, when someone comes in to see me, whether they look to be the obligor or the obligee, I need some basic information after which I can give a ballpark figure on support. Better yet, I know that the other parent will be getting very similar information. We are all reading from the same playbook. This time of year, before the 1998 tax returns are in, I ask for pay stubs that show year-to-date totals, for prior tax returns, and whether they have any abnormal expenses or revenues. Generally, I can then tell them about what they are going to have to pay or going to receive. When they see a chart, they are enormously comforted by its uniformity. When they see the number, they plan accordingly. Often with that information, the parents themselves are able to work out the other details and a relatively peaceable divorce results.

Income shares models magnify the opportunities for honest differences of opinions, let alone the less commendable sort. Perhaps an example would illustrate this. I represented a mother in a divorce. The parties agreed on everything. He acknowledged his salary and would pay according to the chart. Because his salary exceeded that of the IRS deduction tables, and he would be filing in a different category in the future when single, we needed to recalculate his federal tax deductions. There we could not agree. His attorney was someone for whom I have great respect and a good working relationship, but we had an honest difference of opinion that was only resolved by hiring a CPA. Granted it didn't take the CPA a great deal of time but the point is even under the best and most congenial of circumstances under our very simplified current guidelines we have problems.

### Court Clogging

At the present time, support can be adjusted after a year if it is not being paid in conformance with the guidelines and all support has the opportunity to be reviewed every three years. If it is based upon the income shares model, even if just on income alone without any adjustments for child care costs and other factors commonly considered in income shares models, the review will be triggered twice as often -- that is by changes in either party's income. If other equalizing factors, such as child care costs, are included, the opportunities grow again. The courts are crowded with child support, with everything for that matter. This will make it worse. There are twice as many reasons for a review, and the change will engender many more requests for review.

Thank you for your time and also offer you my telephone number (222-4777) and time should any of you wish to call me any time during this session to ask my perspective on this legislation or any proposed in its place.

**TESTIMONY BEFORE THE  
HOUSE HUMAN SERVICES COMMITTEE  
REGARDING HOUSE BILL NO. 1280  
January 20, 1999**

**Chairman Price and members of the House Human Services Committee, my name is Blaine Nordwall. I appear on behalf of the Department of Human Services. The department urges that this committee recommend House Bill 1280 do not pass.**

**In 1983, the legislature first adopted N.D.C.C. § 14-09-09.7. That section then required the department to establish a scale of "suggested minimum contributions." The department was required to consider income, other parental resources, and hardship in establishing these standards. From 1983 through 1987, courts could consider these standards. From 1987 through 1989, use of these standards was mandatory. The particular language of the statute may have had an unintended effect. The suggested minimum contributions became the standard, rather than the minimum, used by courts.**

**In 1989, responding to federal requirements, the legislature amended section 14-09-09.7 and required the department to develop child support guidelines that would be rebuttably presumed to be the correct amount of child support in all cases. That statute remains largely intact ten years later. It has been changed only to conform to a federal requirement that any deviation from the guideline amount be shown to be in the best interest of the child and to require periodic review of the guidelines to be undertaken through rulemaking and through the use of a drafting advisory committee that includes two members of the Legislative Assembly appointed by the Legislative Council. Since 1989, the legislature has required that the guidelines consider income (both gross and net), other resources, and hardship factors.**

The three legislatively required factors underlying the child support guidelines were initially supplemented by consideration of the value of the custodial parent's services and by consideration of the child's needs. When the guidelines were revised effective January 1, 1995, the major change was consideration of the noncustodial parent's responsibility for other children. Each of these six factors, the three identified by the legislature, and the three identified by the department, is grounded in long-standing North Dakota law and practice.

Staff of the National Center for State Courts developed the income shares model with grant money from the federal government. It didn't exist before 1988. The income shares model is based on the concept that the child should receive the same proportion of parental income he or she would have received if the parents lived together. Under this model, a basic child support obligation is computed based on the combined income of both parents. This basic obligation is then prorated in proportion to each parent's income and adjusted to account for child care costs. A child support order is then entered with respect to the noncustodial parent's share of the basic child support obligation and child care costs. The drafters of House Bill 1280 may have been unaware of the consideration of child care costs in an income shares model as the bill makes no provision for gathering that information.

Fair and accurate child support determinations depend on reliable information concerning the cost of rearing children. The United States Department of Health and Human Services sought information concerning the economic evidence of child-rearing expenditures. Five studies funded by the National Institutes for Child Health and Human Development were reviewed. The United States Department of Health and Human Services summarized those studies and identified one, Investing in Children, by *Thomas J. Espenshade*, as "the single most credible source of economic data for development of child support guidelines."



The department relied upon the recommendations respecting Dr. Espenshade's work as a source of information on child-rearing expenditures. It considered the existing guidelines and practices in North Dakota. In response to reviews by persons residing near North Dakota's eastern border, the department considered Minnesota practice.

In 1990, the department prepared proposed guidelines based upon the income shares model. The department consulted with the Juvenile Procedures Committee then established by the North Dakota Supreme Court. That committee recommended an approach that would more closely follow existing North Dakota practices. The department then prepared another draft that was based on a variable percentage of the noncustodial parent's income. On September 26, 1990, the department proposed those two guidelines in the alternative and sought public comment, including specific comments respecting the commentors' preference between the two models. The request for public comment referred to the model based on the income of the noncustodial parent as the "obligor" model, and that name has stuck.

The department conducted four public hearings. It received written comments from 105 commentors and oral comments from 51 persons, 16 of whom had also provided written comments. We were able to identify 138 of the 146 commentors.

Of the 146 commentors, only 43 expressed a preference either for the income shares model or the obligor model. Twenty-two expressed some preference for the income shares model, although many qualified their preference with suggested changes. Fourteen commentors supported the obligor model without reservation. Seven commentors supported the obligor model, but also suggested changes to that model. Thus, the balance of expressed preference was virtually equal.

Of those expressing preference, the primary criticism of the income shares model was its complexity. Most lawyers and judges who commented were particularly

concerned. They typically spoke about the additional time which would be taken through the use of the income shares model. Others saw great difficulty in applying the income shares model in paternity actions and interstate proceedings. The department undertook many comparisons of child support calculations done under the two models. In virtually all cases, the difference in outcome between the two models was negligible. This supported a conclusion that the extra cost of implementing an income shares model would be wasted in most cases.

The department ultimately was persuaded that the obligor model was superior because it is far less costly to administer. In rules effective February 1, 1991, the department adopted the obligor model. The guidelines have, since adoption, been effectively used by North Dakota courts to reduce the amount of litigation in this area, and to simplify child support discussions between disputing parties. At bottom, the only advantage of the income shares model was the appearance of greater fairness. That appearance arises because both parents' income is considered in determining the child support obligation. However, the income shares model is not fair.

The income shares model does not account for the non-monetary contributions of the custodial parent. Custodial parents are, by necessity, directly involved in the time-consuming efforts of raising their children. Custodial parents are primarily responsible for making and following through on the day-to-day arrangements essential to raising children. While this is a burden that most parents cheerfully bear, it has well-known adverse effects on those parents' employment and prospects for advancement in the work place. North Dakota has a long history of considering the value of the custodial parent's services. Adoption of the income shares model would bring an end to that practice.

The most significant weakness of the child support guidelines initially adopted on February 1, 1991 involves the "multiple family" situation. That is, cases where an

obligor has responsibility for a "new" family, or had court-ordered support obligations to two or more families. In this area, the February 1, 1991 guidelines made no change from previous North Dakota practice, and it became apparent that some change was appropriate. When North Dakota undertook a federally required review of child support guidelines in 1994, the major goal was to address "multiple family" situations. As a result, North Dakota is the only state in the nation that uses a rational, non-arbitrary basis for calculating child support obligations in multiple family situations. North Dakota's approach works because it does not depend upon the court having jurisdiction over all child support obligations in the same proceeding and because it requires financial data only from the obligor. North Dakota's "multiple family" approach depends upon the use of the obligor model. Adoption of an income shares model would force North Dakota to abandon its "multiple family" practices. No income shares model is able to account, in any non-arbitrary fashion, for multiple families.

The department's initial conclusion that the obligor model does not produce significantly different orders than the income shares model has been supported repeatedly. During the interim committee's deliberation, former child support director William Strate expressed that view and provided the interim committee with numerous comparisons, using the income shares guidelines of Utah, a state identified by the interim committee. The interim committee, perhaps mistrustful of examples selected by the department, asked the R-Kids organization to supply various scenarios for application of both the Utah guidelines and the North Dakota guidelines. As with previous demonstrations, there was little appreciable difference in the obligations determined under the two sets of guidelines.

The department has consistently expressed a concern that implementation of an income shares model would greatly increase the cost of establishing, reviewing, and modifying child support orders. The fiscal note attached to this testimony again bears that out. The primary basis for the increase in cost arises for the need to

secure income information from custodial parents as well as obligors. In addition, it will be necessary to secure and verify child care cost information. The additional information may also increase the number of requested reviews and may also increase the number of cases in which modification would be sought. However, we have no basis for predicting those increases, and the estimated fiscal impact, therefore, does not reflect such considerations. We also believe there may be some impact on the judicial system, but have not attempted to calculate that impact. Thus, the fiscal note is conservative.

Section 8 of House Bill 1280 would impose the entire cost of implementing an income shares guideline upon the state, an approach which runs contrary to SWAP legislation passed only last session. Under Section 8, the \$912,197 increase for the '99-01 biennium and the \$964,646 increase for the 2001-03 biennium would be imposed entirely upon the state, with 34% of the projected amounts coming from the general fund and 66% coming from federal funds. The estimated general fund impact for the '99-01 biennium is \$310,147 and, for the 2001-03 biennium, \$327,980. The general fund impact for the upcoming biennium was not included in the department's budget.

There are numerous reasons why the income shares model is not a good fit for North Dakota. Adoption of the income shares model would not significantly change the amount of most child support obligations. We would be obliged to abandon North Dakota's progressive practices in multiple family cases. We would be obliged to stop considering the custodial parent's nonfinancial contributions. We would greatly increase the cost of setting child support obligations, both to the state and to private litigants. For all these reasons, the department urges this committee to recommend that House Bill 1280 do not pass.

I'd be happy to try and answer any questions.

Prepared by:  
Blaine L. Nordwall  
Director, Legal Advisory Unit  
ND Department of Human Services

# FISCAL NOTE

(Return original and 13 copies)

Bill / Resolution No.: HB 1280

Amendment to: \_\_\_\_\_

Requested by Legislative Council

Date of Request: 01/13/99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

This bill would change the method used to determine the expected contribution of child support by a parent to an income shares child support guidelines model, and would require the department to pay regional child support enforcement units for any amount expended as a result of this change. If this model is used, it is estimated the regional units would need an additional 8.33 FTEs and incur additional operating costs which are currently about 20% of salary costs.

2. State fiscal effect in dollar amounts:

	1997-1999		1999-2001		2001-2003	
	Biennium		Biennium		Biennium	
	General	Special	General	Special	General	Special
	Fund	Funds	Fund	Funds	Fund	Funds
Revenues:						
Expenditures:	-0-		310,147	602,050	327,980	636,666

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

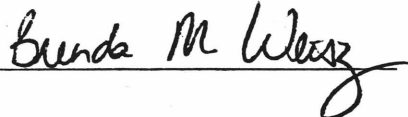
a. For rest of 1997-99 biennium:	-0-
b. For the 1999-01 biennium:	912,197
c. For the 2001-03 biennium:	964,646

4. County, City, and School District fiscal effect in dollar amounts:

	1997-1999			1999-2001			2001-2003		
	Biennium			Biennium			Biennium		
	Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
Revenue				912,197			964,646		
Expenditures	-0-			912,197			964,646		

If additional space is needed, attach a supplemental sheet.

Signed



Typed Name

Brenda M. Weisz

Date Prepared: January 18, 1999

Department

Human Services

Phone No.

328-2397

Department of Human Services  
Fiscal Note Effect  
Detail by Line Item

Bill #: HB 1280  
Request Date: 01/13/99  
Due Date: 01/18/99

Program Manager Mike Schwindt  
Accountant HB

BILL SECTION	EXPLANATION	W/P REF	FY	FTE	ACC	LINE	FB	AOC	GRANT	AMOUNT
Section 8	We estimated an additional 8.33 FTEs would be needed at the regional units, plus operating costs, if the income shares child support guidelines model were implemented. These amounts assume a 1/1/99 effective date. See attachment for calculations.		99	8.33	*	30	B	3014	S035	912,197
			99		*	30	F	3991	S035	310,147
			99		*	30	F	3992	S035	602,050
			01	8.33	*	30	B	3014	S035	964,646
			01		*	30	F	3991	S035	327,980
			01		*	30	F	3992	S035	636,666
	NOTE: These calculations assume an effective date of 7/1/99 if the bill would pass.									

\* Cost Centers 3201 thru 3208 for the IV-D Regional Units.

**Department of Human Services  
Fiscal Note Effect  
Summary by Line Item**

Line Item	Biennium		
	1997-99	1999-01	2001-03
Salaries			
Operating		912,197	964,646
Equipment			
Capital Improvements			
Capital Improvement Carryover			
Grants			
HSC_Institutions			
Loan Fund			
Grants - Economic Assistance			
Grants - Medical			
Computer Technology			
<b>Total</b>		<b>912,197</b>	<b>964,646</b>
General		310,147	327,980
Federal		602,050	636,666
Other			
Retained			
County			

**ATTACHMENT - HB 1280  
COSTS TO CHANGE TO INCOME SHARES CHILD SUPPORT GUIDELINES MODEL**

NOTE: Mike Schwindt received input from the regional units regarding the numbers used in our calculations.

**Number of Cases:** The regional units review about 3,000 cases per year and establish about 2,000 additional cases.

$$3,000 \text{ cases} + 2,000 \text{ cases} = 5,000 \text{ cases}$$

**Additional Time Required:** It is estimated the income shares child support guidelines model would add 3 hours to each case being reviewed or established, resulting in an additional 15,000 hours of work each year. This does not account for any increased demand for reviews expected from the change in methodology.

$$5,000 \text{ cases} \times 3 \text{ hours} = 15,000 \text{ additional hours}$$

**# of FTEs Needed:** If we assume an FTE has 1800 productive hours per year out of 2080 hours (considers vacation, sick leave, funeral leave, etc.), an additional 8.33 FTEs would be needed at the regional units for the income share child support guidelines model.

$$15,000 \text{ hours} / 1800 \text{ hours per FTE} = 8.33 \text{ FTEs}$$

**Salary Costs:** We used the midpoint salary range for a Grade 28 as of 7/1/98 (\$2,837 per month) in estimating salary costs and factored in a 3% inflation rate on July 1, 1999 and each subsequent year.

$$\$2,837 \times 12 \text{ months} = \$34,044 \text{ per year}$$

**Fringe Benefits:** FICA and retirement were calculated at 16.67% of salary and health insurance at \$340 per month with a 3% inflationary increase each year.

**Operating Costs:** Operating costs would equal 20% of total salary and fringe benefit costs for the first year of the 99 Biennium and would increase by 2% each subsequent year. We calculated this percentage by using total expenditures and salary costs from the regional units (see schedule of regional unit expenditures).

Year and Biennium	Salary	Health Insurance	FICA & Retirement	Operating Costs	Totals	General Funds	Federal Funds
1st Year of 99 Biennium	292,094	33,986	48,692	74,955	449,727	152,907	296,820
2nd Year of 99 Biennium	300,857	35,006	50,153	76,454	462,469	157,240	305,230
<b>Total for 99 Biennium</b>	<b>592,951</b>	<b>68,992</b>	<b>98,845</b>	<b>151,408</b>	<b>912,197</b>	<b>310,147</b>	<b>602,050</b>
1st Year of 01 Biennium	309,883	36,057	51,657	77,983	475,579	161,697	313,882
2nd Year of 01 Biennium	319,179	37,138	53,207	79,542	489,067	166,283	322,784
<b>Total for 01 Biennium</b>	<b>629,062</b>	<b>73,195</b>	<b>104,865</b>	<b>157,525</b>	<b>964,646</b>	<b>327,980</b>	<b>636,666</b>



ATTACHMENT 2 - HB 1280  
 REGIONAL UNIT EXPENDITURES  
 DEC. 97 QTR thru SEPT. 98 QTR.

NOTE: These expenditures were obtained from the Regional Unit Quarterly Expenditures Reports.

	Total Expenditures	Total Salary & Benefits	Difference	% of Total Salary & Benefits
Dec. 97	1,015,475	775,977	239,497	30.86%
March 98	965,122	827,689	137,433	16.60%
June 98	963,496	824,535	138,961	16.85%
Sept. 98	984,038	823,393	160,645	19.51%
Totals	<u>3,928,131</u>	<u>3,251,595</u>	<u>676,536</u>	<u>20.81%</u>

% of Operating to Salary Expenditures **20.81% \***

% of Operating to Total Expenditures 17.22%

\* To be on the conservative side we rounded this amount down to 20% when calculating the costs to change to the income shares child support guidelines model.

**TESTIMONY OF BRAD DAVIS**  
**Administrator**  
**Southwest Area Child Support Enforcement Unit**  
**Dickinson, North Dakota**

**HOUSE HUMAN SERVICES COMMITTEE**

**January 20, 1999**

House Bill No. 1280

Madame Chair and members of the Committee, my name is Brad Davis. I am the Child Support Administrator of the Southwest Area Child Support Enforcement Unit in Dickinson. I urge this committee to recommend a DO NOT PASS of House Bill 1280.

As a regular part of my job, I spend considerable time using the child support guidelines to calculate child support obligations. In October 1997, I was invited to be part of a panel of presenters to present and discuss different models of child support guidelines at the Western States Child Support Enforcement Conference. As a result of this, I have had some experience studying various guideline models, including income shares.

There are two basic premises of North Dakota's child support guidelines.

1. That calculations of child support obligations consider and assume "that one parent acts as the primary care giver and the other parent contributes a payment of child support to the child's care."
2. That the child is entitled to the same lifestyle that he or she would have had if the family had remained intact.

The income shares model abandons the first premise in that it ignores the value of the in-kind support given to a child by the custodial parent and makes them both proportionately

responsible for the financial support of the child, thus the non-custodial parent is held liable for his or her portion of the financial support while the custodial parent is held liable for his or her portion of the financial support, as well as all or nearly all of the in-kind support.

It is difficult to put a value on in-kind support, things such as cooking meals, washing clothes, helping with homework and providing transportation, but those of you who have raised children in your home know the countless hours that you spent providing this type of support. Imagine the burden on a single parent. A guidelines model that does not recognize this cannot possibly be fair.

There are several things that I would urge you to consider when studying this bill.

1. An interim committee just completed a study which included consideration of an income shares guidelines and no bill was introduced.
2. How the counties would bill the state for time spent considering the custodial parent's income.
3. The fact that over the past several years, case law has been established to clear up most of the ambiguous questions in the guidelines. A new guidelines model would eliminate the value of that body of case law and require the process to being all over again.

I would also ask you to review the child support guidelines and child custody and visitation

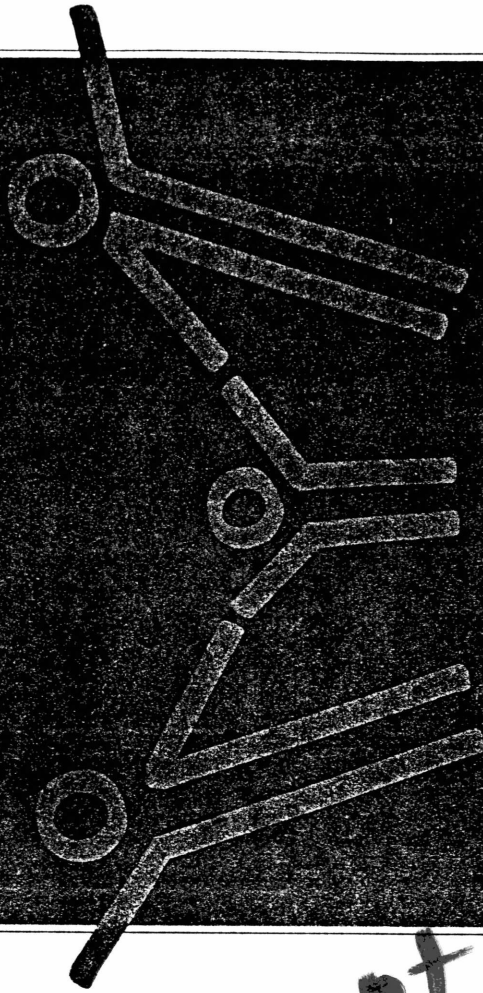
background memorandum prepared by the legislative council for the child support committee in July, 1997. This document gives the history of the child support guidelines in North Dakota, as well as various changes that were made or considered and abandoned.

I would also urge you to review the relevant parts of the report of Supreme Courts Commission on gender fairness in the courts which said in part:

“It is generally agreed that using one model rather than the other does not in itself change outcomes. The decision about which model to adopt is largely a matter of weighing the appearance of greater fairness against the public and private costs of administering a more complex system. Resentment created by an increased child support obligation should not cause exchange of an in-place, workable system for a more complex one. Unfortunately, some public hearing testimony reflects serious lack of understanding as well as resentment of child support obligations. Judges and attorneys should counter impressions of unfairness or gender bias by explaining the rationale of the percentage model to divorcing parents.”

Lastly, if you are truly going to consider an income shares guidelines, I urge you to look at comparisons between the two, then decide if the outcome is what you desire.

*Giving Hope and Support to  
America's Children*



# Handbook on Child Support Enforcement



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Administration for Children and Families  
Office of Child Support Enforcement

*This document  
is with  
testimony on  
AB 1407*

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