

1999 SENATE HUMAN SERVICES

SB 2288

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2288

Senate Human Services Committee

Conference Committee

Hearing Date JANUARY 27, 1999

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1 | X | | 2,240 |
| 2 | X | | |
| | | | |
| Committee Clerk Signature <i>Carol Kolodziejchuk</i> | | | |

Minutes:

The hearing was opened on SB2288.

SENATOR STENEHJEM's written testimony was handed out in his absence.

ARNE FLECK, attorney, introduced the bill in written testimony. This bill would permit a claim to be filed against your estate if you do not pay before you die. Message needs to be understood that there is no benefit to not paying now; we have a lifetime to come after you. You can keep filing affidavits to collect child support as this litigation can last forever. SENATOR KILZER asked if there were not hard and fast rules about bankruptcy and what is immune. Mr. FLECK answered that child support is one of the provisions that you cannot discharge. Technically speaking that is a Federal matter.

DANIEL BEISHEUVEL, R-KIDS supports bill with one concern. (written testimony).

Amendments were presented. SENATOR LEE: Is there enough protection for people

erroneously notified of obligation. MR. FLECK responded that you should immediately respond to that order. Need to bring it to court. I have never run into it. If you can't find the individual an affidavit can be sent to the last known address and that is considered sufficient.

MR NORDWALL: The current law in ND is that the parties keep the clerk apprised of address changes. There may be occasions that people will not give addresses to the clerk, but whose responsibility should that be. We believe that a proper understanding of the law is that you could have up to 30 years after the child reaches 18. It would clear up the ambiguity that this law is on the books and I think it is a good idea. SENATOR LEE: What happens if there is a woman who for whatever reason has not recognized that a particular man is the father of her child. He doesn't even know that he is the father of this child. If the child is not 17 and Mom has decided it is time for him to know who his father is, does the state come into the loop now and try to collect back child support? MR. NORDWALL stated that a number of things would happen. If the father of the child did not know that the child existed, and the individual made no action the state wouldn't be involved. If the individual applied for assistance with the child support office in establishing paternity, we would work on that and if the individual applied for temporary assistance for needy families she would be obliged to assign her rights and we would attempt to establish who the father of the child was. At that point there would be an order established and if there was public assistance paid, there would be an order established to seek the repayment of that public assistance consistent with the individuals income and ability to pay during the periods that public assistance was paid. It is extraordinarily rare that this happens. SENATOR KILZER asked MR FLECK if he had a stand on these amendments. MR. FLECK yes, this kind of thing can happen. 1. The concern is that how can you be penalized for no knowledge. I think that is a

reasonable thing. 2. The father has every right to bring his own paternity action and he can go after custody. I wouldn't favor something like that necessarily. If you know you are the father of the child accept your responsibility. 3. Maybe falls back to #1; if he knows he is the father and she names someone else. The statute of limitations stay until the child turns 18 and then you have 3 years to bring an action to establish paternity. I'd have to think about this. MR.

NORDWALL is concerned that there would be a limit of statute of limitations for any period less than child's minority plus some time. We shift from supporting the child paying money to the mother. The child can't sue. Real caution should be used in the amendments that are based on mom's failure to act. SENATOR DEMERS stated that child support payments should be about the child and not about the payment of money. With no statute of limitations this becomes about the payment of money. MR. NORDWALL: yes, it is about money. The statute of limitations doesn't start to run until the youngest child reaches age 18 and goes for 10 years. You can file judgment, good for another ten years. the judgment can be renewed for another 10 years. That is the current law. This bill clarifies the current law. SENATOR FISCHER: This goes back to 1997 when the custodial parent not paid support. Does the department withhold the child support from the child until the arrearages are made up? MR. NORDWALL: The department never withheld current support from the parent when support is coming in. If the state was owed arrears they would keep those payments until past payments were paid. This has been reversed in the Federal law. Private individuals get paid off first in arrears payments. MR. FLECK stated money goes to custodial parent - create pay when children are young. This can be followed for life.

The hearing was closed on SB2288.

Discussion was resumed on SB2288.

SENATOR DEMERS stated that she was divorced when her son was 5 years old; I didn't want any child support; I didn't feel I needed any child support. My son is now 33; if we pass this bill I can go back into court and ask for child support from the time he was 5 until he was 18 unless we put some of these restrictions on. The only reason I would do it would be for money; certainly wouldn't be for child support at this stage. I wouldn't do it, but it is a point to be made. More discussion followed. MR. NORDWALL was called back to the committee. SENATOR THANE explained that we believe some amendments would be beneficial to the bill. We would like to hear from you. It appears that the primary concern of R-KIDS is with respect to cases that someone is identified as the father after the child has quite a few year in and there is a retroactive application of the arrears derived from the child support for the past. This comes up rarely, but these are exceptions to retroactively. Ten years ago a child was born and now we have an obligation established and these arrears look back at ten years. Unless the court has already decided that the statute of limitations precludes collecting some part of those arrears this would not help. I am not aware of any case and I called around and nobody has. My recommendation to the committee is if you want to do something about it instead preparing what looks like a very confusing kind of quasi retroactivity, just get rid of the retroactivity section of the bill. Section 2 of the bill is the part that the amendments address. Then what we would have is the existing statute of limitations with respect to retroactive period. SENATOR THANE stated that the emergency clause would remain in the bill. Yes. Give me an example of how it will work if we remove that part. Mr. NORDWALL: You would have to have a situation where the court under the current law has said that the statute of limitations functions as a defense to the claim. That's

all statutes of limitations are. I bring a claim against you in a court of law and you say you waited too long. The court says, that's right, you can't bring that any more. It's a defense. You would have to have a case that would have taken place before the effective date of the bill, before a retroactivity clause would have any impact anyway. What a retroactivity clause would do is restore the claim. Now the court would say, I guess you can sue. SENATOR DEMERS thought they wanted to start the clock when the person finds out he is a parent, so they won't owe for the back 4 years, only from right now. Mr. NORDWALL: I heard those things too, the problem is using this bill to create a whole new set of statute of limitations that would be very short as opposed to what the bill started out with. This is just creating new statutes of limitations. ND law says that if more than one man is named all of them will be called; the ones that turn out not to be the father you just dismiss. SENATOR DEMERS: Can I go in and sue for child support? MR. NORDWALL: If you brought your action after the bill went into effect you could bring your action. There's something called laches, another kind of defense. There may be a problem with the court saying you just need the money. It probably wouldn't go. The child support people don't have a problem removing section 2.

SENATOR DEMERS moved that section 2 be removed. SENATOR FISCHER seconded it.

Roll call vote carried 6-0. SENATOR DEMERS moved a DO PASS AS AMENDED.

SENATOR KILZER seconded the motion. Roll call vote carried 6-0. SENATOR

MUTZENBERGER will carry the bill.

Date: 1/27/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2288

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 98304.0101

Action Taken Amended delete

Motion Made By Sen DeMers Seconded By Sen Fischer

| Senators | Yes | No | Senators | Yes | No |
|----------------------|-----|----|----------|-----|----|
| Senator Thane | ✓ | | | | |
| Senator Kilzer | ✓ | | | | |
| Senator Fischer | ✓ | | | | |
| Senator Lee | ✓ | | | | |
| Senator DeMers | ✓ | | | | |
| Senator Mutzenberger | ✓ | | | | |
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Total 6 (yes) 0 (no)

Absent 0

Floor Assignment _____

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

Date: 4/27/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2288

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 98 304.0101 .0200

Action Taken Do Pass as Amended

Motion Made By Sen DeMers Seconded By Sen Filzen

| Senators | Yes | No | Senators | Yes | No |
|----------------------|-----|----|----------|-----|----|
| Senator Thane | ✓ | | | | |
| Senator Kilzer | ✓ | | | | |
| Senator Fischer | ✓ | | | | |
| Senator Lee | ✓ | | | | |
| Senator DeMers | ✓ | | | | |
| Senator Mutzenberger | ✓ | | | | |
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Total 6 (yes) 0 (no)

Absent 0

Floor Assignment Sen Mutzenberger

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

REPORT OF STANDING COMMITTEE

SB 2288: Human Services Committee (Sen. Thane, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2288 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "to provide for"

Page 1, line 3, remove "retroactive application;"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 5

Renumber accordingly

1999 HOUSE JUDICIARY

SB 2288

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2288

House Judiciary Committee

Conference Committee

Hearing Date 3/15/99

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| 1 | | x | 17.0-28.6 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Alan Quinlan</i> (Done by Robin Small) | | | |

Minutes: REP. DEKREY called the meeting to the order.

SUPPORT

ARNIE FLECK, SELF. SEE HANDOUT. FLECK is talking about some examples. He urges the committee for a DO PASS.

REP. KLEMIN asks about the judgment in bankruptcy. FLECK addresses it.

OPPOSE

DANIEL BIESHEWVEL, OUR KIDS ORGANIZATION. Talks about estates.

REP. HAWKEN asks about electric bills, and when a person dies the estate will be paying the bills. HAWKEN is also commenting on judgments that are on going. MAHONEY replies to her question.

The hearing was then closed to further testimony being there was no more.

The committee came back later in the afternoon to finish action on the bill.

Page 2
House Judiciary Committee
Bill/Resolution Number 2288
Hearing Date 3/15/99

REP. KLEMIN moves the amendment, seconded by REP. DISRUD. The voice vote passes.

REP. MEYER moves for a DO PASS AS AMENDED, seconded by REP. HAWKEN. The roll call vote was taken with 13 YES, 0 NO, 2 ABSENT. The motion carries. The CARRIER of the bill is REP. HAWKEN.

Date: 3.15.99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2288

House JUDICIARY Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken accept the Amendment

Motion Made By Keemin Seconded By Disrud

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| REP. DEKREY | | | REP. KELSH | | |
| REP. CLEARY | | | REP. KLEMIN | | |
| REP. DELMORE | | | REP. KOPPELMAN | | |
| REP. DISRUD | | | REP. MAHONEY | | |
| REP. FAIRFIELD | | | REP. MARAGOS | | |
| REP. GORDER | | | REP. MEYER | | |
| REP. GUNTER | | | REP. SVEEN | | |
| REP. HAWKEN | | | | | |

voice carries

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

Date: 3-15-97
 Roll Call Vote #: 2

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2288

House JUDICIARY Committee

Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Meyer Seconded By Hawken

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| REP. DEKREY | ✓ | | REP. KELSH | ✓ | |
| REP. CLEARY | ✓ | | REP. KLEMIN | ✓ | |
| REP. DELMORE | ✓ | | REP. KOPPELMAN | ✓ | |
| REP. DISRUD | ✓ | | REP. MAHONEY | ✓ | |
| REP. FAIRFIELD | ✓ | | REP. MARAGOS | ✓ | |
| REP. GORDER | ✓ | | REP. MEYER | ✓ | |
| REP. GUNTER | ✓ | | REP. SVEEN | | |
| REP. HAWKEN | ✓ | | | | |

Total Yes 13 No 0

Absent 2

Floor Assignment Hawken

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

REPORT OF STANDING COMMITTEE

SB 2288, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2288 was placed on the Sixth order on the calendar.

Page 1, line 15, remove the underscored comma

Page 1, line 16, remove " , may"

Page 1, line 17, remove "not discharged in bankruptcy and"

Renumber accordingly

1999 TESTIMONY

SB 2288

Senate Human Services Committee
Senate Bill 2288
January 27, 1999 10:45 am
Red River Room

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

A ten year retroactivity on garnished child support must have some limitations. I suggest the following:

Page 2, line 5:

28-20-35 as of the effective date of this Act or unless:

1) a. The cause of the arrearage is the lack of notification to the obligor of his paternity.

2) b. The obligor^{is} had, prior to this judgement, shown no desire for support from or notification of the obligee of his duty.

3) c. The obligee had, prior to this judgement, named another as the paternal parent with or without his agreement.

My concern is a child support arrearage that is placed on an obligor who had no prior knowledge or was freed from prior support.

Thank you and I will attempt to answer any questions.

January 27, 1999

SENATE HUMAN SERVICES COMMITTEE

SB 2288

CHAIRMAN THANE AND COMMITTEE MEMBERS:

My name is Arnie Fleck. I am an attorney who is licensed to practice law in the State of North Dakota. I am employed by the Wheeler Wolf Law Firm of Bismarck, North Dakota, and have been actively practicing law in the private sector for the past 12 years. In my practice of law, I am almost daily involved with issues regarding divorce, child custody, child support and visitation. I appear to testify in support of SB 2288 in my capacity as a concerned citizen who believes non-custodial parents should not be allowed to evade their responsibility to pay child support.

The Bill, if enacted, will allow collection of unpaid child support throughout the life of the person who fails to pay his or her support and then through the probate of that person's estate. This past summer, I prepared a draft of the Bill for a client, Gloria Martin, to help her and others who may find themselves in a situation where a non-custodial parent makes a concerted effort to avoid paying child support. I gave the Bill draft to Gloria with a recommendation that she approach one of her state representatives with a request that the Bill be enacted into law. She approached Senator Layton Freborg, who in turn referred the Bill draft to Senator Wayne Stenejhem for an opinion as to whether the Bill would be good for North Dakota. Given Senator Stenejhem's decision to sponsor SB 2288, I believe one can safely say that Senator Stenejhem is of the opinion that the Bill would be good for North Dakota.

I concur with Senator Stenejhem's testimony on this Bill draft, and will limit my comments to the facts of Gloria Martin's situation.

In October of 1979, Gloria's then husband moved out of their home, leaving Gloria to raise their two children, who were 8 and 9 years of age at the time. When he moved out of the home, her husband moved in with another woman. Prior to leaving, her husband promised that he would provide Gloria with half of his paycheck. Despite the promise, Gloria never received any support until 3 months after entry of their divorce judgment. The divorce judgment was entered on June 4, 1980, and ordered that her ex-husband pay \$110 per month per child in child support. She received her first child support payment of \$220 on September 1, 1980, 11 months after her ex-husband had moved in with his girlfriend, 3 months after the first support payment was due under the divorce judgment. Her ex-husband made his second payment in two installments more than 5 months late, and his third payment in 2 installments more than 7 months late. Thereafter, for a period of more than 4½ years, though Gloria did receive 2 payments totalling \$1,680 through 2 intercepts of her ex-husband's income tax refund checks, her ex-husband did not make a single payment. For more than 13 months thereafter, though her ex-husband began to make more regular payments, his payments averaged \$40 a month. During the last 3½ years that he had an obligation to pay support monthly, her ex-husband finally began making regular payments. However, the payments averaged under \$100 a month, and he never once paid an amount equal to or in excess of his monthly support obligation in effect for the month, other than 1 month wherein another income tax refund check was intercepted.

Shortly after the underlying obligation to pay monthly support payments terminated in May of 1990, a letter was sent to Gloria's ex-husband in attempt to negotiate a settlement of the child support arrears. His response was a rude letter telling us to "shove it," wherein he also threatened to quit his job and move out of state if the matter was pursued. In 1996 her ex-husband was declared disabled and began receiving Social Security and Workers Compensation Disability benefits. In 1997, Gloria sued to have the child support arrears entered as a money judgment. Though there is an appeal pending on the issue of how the arrears should be calculated, Gloria is currently owed anywhere from \$23,000 to \$37,000 in child support arrears. We are presently garnishing her ex-husband's disability benefits in an effort to satisfy the child support arrears. Recently, her ex-husband indicated in a letter to her, that, unless she accepts a small amount of what is owed as payment in full, he will get off disability and take on jobs that pay cash, so that she is unable to collect on the arrears.

Shortly after he abandoned his family in 1979, Gloria's ex-husband quit a good paying job and for the next 5 years changed jobs approximately once every year, including an effort to start his own auto-body repair business. During their 10 year marriage, he wouldn't allow Gloria to work, and, after he abandoned the family, for years he provided little to no support. As a result, within 2 months of his abandoning the family, Gloria and her children were forced to live with her parents. At the time, she was at least a month behind in her rent and had to rely on the support of relatives to pay for the gas to transport her family to her parents' home. She and the children continued to live with her parents until they began receiving AFDC and food stamps. For a period of time, before she married her current husband in August of 1980, after a whirl-wind romance that started shortly before she filed for divorce in April 1980, Gloria worked 3 part time jobs to support her family. Even after she began receiving AFDC benefits, she couldn't afford to rent decent housing. Everything she could afford was in bad neighborhoods and in poor condition. Not wanting her children to live in that environment, she received additional financial assistance from her parents. Gloria's current husband also helped out by paying rent for a few months before they married.

Gloria's current husband was also divorced and paying support for 2 children of his own. Due to the failure of Gloria's ex-husband to make adequate support payments, her current husband fell behind in his child support payments. Due to the financial instability caused by Gloria's ex-husband's failure to pay support, Gloria and her current husband were unable to save sufficient money for a down payment on a home, and sometimes did not even having enough money for groceries, which required that they obtain help from the Food Bank and with payment of their utilities. Despite their financial troubles, Gloria and her current husband did what they could to ensure that her current husband's child support obligation was met. Though some arrears did accrue, the arrears were paid in full 6 months after his underlying support obligation terminated. It's been 8½ years since Gloria's ex-husband's underlying support obligation terminated, and given his recent threat to go back to work for cash and the amount of the arrears owing, it could take more than another decade before she is paid in full.

If SB 2288 is enacted to law, and her ex-husband is made aware of the law, it may convince him that he will not financially gain by attempts to avoid his obligation to pay his child support. More importantly, enacting SB 2288 may convince many others to pay their support on time, since it will become more unlikely they will be able to gain financially if they fail to do so.

I, therefore, respectfully request a DO PASS of SB 2288. If you have any questions, I'll answer those that I believe I have sufficient knowledge to answer.

January 27, 1999

SENATE HUMAN SERVICES COMMITTEE

SB 2288

CHAIRMAN THANE AND COMMITTEE MEMBERS:

My name is Senator Wayne Stenehjem. I am the primary sponsor of SB 2288. Representatives Serenus Hoffner, RaeAnn Kelsch, John Mahoney and Janet Wentz are co-sponsors of the Bill.

The Bill, if enacted, will allow collection of unpaid child support throughout the life of the person who fails to pay his or her support and then through the probate of that person's estate.

A person may be barred from pursuing collection of a debt if that person does not commence a lawsuit within a specified time period allowed by law. The time period a person has to commence a lawsuit is referred to as a statute of limitations. Depending on the grounds for the lawsuit and who owes the debt, the statute of limitations may vary from as little as 1 year to as much as 20 years. In some cases, the statute of limitations may be extended due to lack of knowledge of the grounds for the lawsuit, infancy, incompetency or imprisonment. After a person obtains a judgment, typically, unless the debt is discharged in bankruptcy proceedings, the person may continue to make collection efforts on the judgment for 10 years. Thereafter, efforts to collect on the judgment can continue only if the original judgment is renewed by the filing of an affidavit within the last 90 days of the first 10 year period. If a renewal affidavit is timely filed, efforts to collect on the judgment may continue for another 10 years. After the time allotted to collect on the judgment expires, the judgment is cancelled by operation of law.

Currently, there is one exception to the time limits placed on a judgment. Under §32-03-09.2 of the North Dakota Century Code, a judgment based on the willful destruction of personal property may not be discharged in bankruptcy and is not subject to the statute of limitations, nor may such judgment be cancelled by the passage of time. I believe judgments based on unpaid child support deserve the same treatment.

Many have alluded the responsibility of paying child support by becoming self-employed and under reporting their income, taking jobs that pay cash, frequently changing jobs, moving frequently, moving out of the country, moving onto reservations or taking jobs with businesses located on reservations. This Bill originated from such a case. One of Senator Layton Freborg's constituents, approached him with her concern, of which you will hear more of from other speakers, and this Bill is the result.

The Bill will encourage the timely payment of child support and, when that is not the case, will allow collection attempts to continue throughout the life of the person who failed to pay the support. The Bill will also increase the chance that the provisions of section 14-09-08.17 of the North Dakota Century Code will be able to be implemented by those for whom the section was intended to help. Section 14-09-08.17 prohibits a person from being able to renounce his inheritance if a claim of unpaid child support has been made against that person's share of a decedent's estate.

For these reasons, I respectfully request a DO PASS of SB 2288.

March 15, 1999

HOUSE JUDICIARY COMMITTEE

SB 2288

CHAIRMAN DEKREY AND COMMITTEE MEMBERS:

I am Senator Wayne Stenehjem. I am the primary sponsor of SB 2288. Representatives Serenus Hoffner, RaeAnn Kelsch, John Mahoney and Janet Wentz are co-sponsors of the Bill.

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The Bill will encourage the timely payment of child support and, when that is not the case, will allow collection attempts to continue throughout the life of the person who failed to pay the support. The Bill will also increase the chance that the provisions of section 14-09-08.17 of the North Dakota Century Code will be able to be implemented by those for whom the section was intended to help. Section 14-09-08.17 prohibits a person from being able to renounce his inheritance if a claim of unpaid child support has been made against that person's share of a decedent's estate.

The Senate's deletion of the clause which called for retroactive application should not affect how SB 2288 is applied in the future. The Bill would only apply to child support arrears for which the right to collect has not yet expired as of the effective date of the Bill. It would not reinstate the right to collect child support arrears based on judgments for which the right to collect has or will have expired as of the effective date of the Bill.

For these reasons, I respectfully request a DO PASS of SB 2288.

March 15, 1999

HOUSE JUDICIARY COMMITTEE

SB 2288

CHAIRMAN DEKREY AND COMMITTEE MEMBERS:

My name is Arnie Fleck. I am an attorney who is licensed to practice law in the State of North Dakota. I am employed by the Wheeler Wolf Law Firm of Bismarck, North Dakota, and have been actively practicing law in the private sector for the past 12 years. In my practice of law, I am almost daily involved with issues regarding divorce, child custody, child support and visitation. I appear to testify in support of SB 2288 in my capacity as a concerned citizen who believes non-custodial parents should not be allowed to evade their responsibility to pay child support.

The Bill, if enacted, will allow collection of unpaid child support throughout the life of the person who fails to pay his or her support and then through the probate of that person's estate. This past summer, I prepared a draft of the Bill for a client, Gloria Martin, to help her and others who may find themselves in a situation where a non-custodial parent makes a concerted effort to avoid paying child support. I gave the Bill draft to Gloria with a recommendation that she approach one of her state representatives with a request that the Bill be enacted into law. She approached Senator Layton Freborg, who in turn referred the Bill draft to Senator Wayne Stenehjem for an opinion as to whether the Bill would be good for North Dakota. Given Senator Stenehjem's decision to sponsor SB 2288, I believe one can safely say that Senator Stenehjem is of the opinion that the Bill would be good for North Dakota.

I concur with Senator Stenehjem's testimony on this Bill draft, and will limit my comments to the facts of Gloria Martin's situation, who couldn't be with us today because of her employment as a semi-truck driver.

In October of 1979, Gloria's then husband moved out of their home and moved in with another woman, leaving Gloria to raise their two children, who were 8 and 9 years of age at the time. Prior to leaving, her husband promised that he would provide Gloria with half of his paycheck. Despite the promise, Gloria received no support for almost a year. Their divorce judgment was entered on June 4, 1980, and ordered that her ex-husband pay \$110 per month per child in support. She received her first child support payment of \$220 on September 1, 1980, 11 months after her ex-husband had moved in with his girlfriend and 3 months after the first support payment was due under the judgment. She received the second payment in two installments more than 5 months late, and the third payment in 2 installments more than 7 months late. Thereafter, for a period of more than 4½ years, through Gloria did receive 2 payments totalling \$1,680 through 2 intercepts of her ex-husband's income tax refund checks, her ex-husband did not make a single payment. For more than 13 months thereafter, though her ex-husband began to make more regular payments, his payments averaged \$40 a month. During the last 3½ years that he had an obligation to pay support monthly, her ex-husband finally began making regular payments. However, the payments averaged under \$100 a month, and he never once paid an amount equal to or in excess of his monthly support obligation in effect for the month, other than 1 month wherein another income tax refund check was intercepted.

Shortly after the underlying obligation to pay monthly support payments terminated in May of 1990, a letter was sent to Gloria's ex-husband in an attempt to negotiate a settlement of the child support arrears. His response was a rude letter telling us to "shove it," wherein he also threatened to quit his job and move out of state if the matter was pursued. In 1996 her ex-husband was declared disabled and began receiving Social Security and Workers Compensation Disability benefits. In 1997, Gloria sued to have the child support arrears entered as a money judgment. Gloria is currently owed approximately \$25,000 in child support arrears. We are presently garnishing her ex-husband's disability benefits in an effort to satisfy the child support arrears. After we started garnishing his disability benefits, Gloria's ex-husband indicated that, unless she accepts a small amount of what is owed as payment in full, he will get off disability, move out of state and take on jobs that pay cash, so that she is unable to collect on the arrears.

Shortly after he abandoned his family in 1979, Gloria's ex-husband quit a good paying job and for the next 5 years changed jobs approximately once every year, including an effort to start his own auto-body repair business. During their 10 year marriage, he wouldn't allow Gloria to work, and, after he abandoned the family, for years he provided little to no support. As a result, within 2 months of his abandoning the family, Gloria and her children were forced to live with her parents. At the time, she was at least a month behind in her rent and had to rely on the support of relatives to pay for the gas to transport her family to her parents' home. She and the children continued to live with her parents until they began receiving AFDC and food stamps. For a period of time, before she married her current husband in August of 1980, after a whirl-wind romance that started shortly before she filed for divorce in April 1980, Gloria worked 3 part time jobs to support her family. Even after she began receiving AFDC benefits, she couldn't afford to rent decent housing. Everything she could afford was in bad neighborhoods and in poor condition. Not wanting her children to live in that environment, she received additional financial assistance from her parents. Gloria's current husband also helped out by paying rent for a few months before they married.

When they met, Gloria's current husband was also divorced and paying support for 2 children of his own. Due to the failure of Gloria's ex-husband to make adequate support payments, her current husband fell behind in his child support payments. Due to the financial instability caused by Gloria's ex-husband's failure to pay support, Gloria and her current husband were unable to save sufficient money for a down payment on a home. Sometimes they didn't even have enough money for groceries, which required that they obtain assistance from the Food Bank and with payment of their utilities. Despite their financial troubles, Gloria and her current husband did what they could to ensure that her current husband's child support obligation was met. Though some arrears did accrue, the arrears were paid in full 6 months after his underlying support obligation terminated. It's been 8½ years since Gloria's ex-husband's underlying support obligation terminated, and, given his on-going threats, it could take more than another decade before she is paid in full.

If SB 2288 is enacted into law, and her ex-husband is made aware of the law, it may convince him that he will not financially gain by attempts to avoid his obligation to pay his child support. More importantly, enacting SB 2288 may convince many others to pay their support on time, since it will become more unlikely they will be able to gain financially if they fail to do so.

I therefore, respectfully request a DO PASS of SB 2288.