

Testimony
Department Of Human Services
Judicial Process Committee
Representative Shirley Meyer, Chairman
June 24, 2008

Chairman Meyer, members of the Judicial Process Committee, I am Mike Schwindt, Director of the award winning Child Support Enforcement (CSE) program in the Department of Human Services. I am here to respond to the Committee's request for information on accounting for child support received and paid out and the suspension of driver's licenses for the nonpayment of child support.

Accounting for child support

Background. Prior to the Welfare Reform Act of 1996, each county Clerk of Court received, recorded, and paid out child support payments from employers and obligors within the state and from other states. As part of Welfare Reform, all states were required to establish a state disbursement unit (SDU) to provide a central point of receiving, recording and disbursing all collections in IV-D cases and income withholding collections in nonIV-D cases with subsequent payment to custodial parents and to governmental units.

The Legislature went past the federal mandate; deciding that all payments, whether required by federal law or not, would flow through our SDU. This reassignment of responsibilities resulted in the CSE program and clerks becoming more efficient since there was a single set of records and customers could have one place in the state to call for an account status.

Additionally, we agreed to process the spousal support payments, the remaining item that clerks retained, so that clerks would no longer need to maintain that type of payment system.

We brought our SDU up starting in November 1998, converting information from about 50,000 cases in the clerks' offices into FACSES, our computer system. That task was completed in May 1999. As you might expect, the status of individual cases was all over the board; some counties had very sophisticated systems; others did not. Nonetheless, we accepted the data and went through a tremendous reconciliation process so that the right amount of funds would be going to the right family, a particularly important situation since now obligors with more than one case could not pay one family and ignore another. Similarly, since our enforcement efforts are controlled to a great extent by the recorded unpaid balances, we needed to double check our data with parents to ensure we were using the best information available.

We know the outstanding balances can use updating for a number of reasons. Common problem sources are:

- The court order was misinterpreted when originally set up; thus, all subsequent accruals would be incorrect.
- Payments were made to another jurisdiction and we were not informed.
- Payments were withheld from people's paychecks but not sent to us.
- One parent pays the other directly instead of sending the money to the SDU.
- We or the employer makes a mistake distributing the funds.

I believe we have taken all reasonable steps to correct and keep our data clean.

- As part of the 1998 conversion process, we added a number of temp staff to do the worksheets needed to bring payment records from multiple sources in line. We also hired more staff to handle customer calls – and they were busy.
- Learning from the conversion process, in 2002, we mailed thousands of letters to parents, confirming the balances we carried. Very few came back with questions and even fewer showed our data to be incorrect.
- Each month, we send notices to people with arrears, telling them that our records show they have an overdue balance, and that we will be filing one-time tax refund offset and credit reporting notices. This gives them an opportunity to identify differences and reconcile the accounts.

We also send over 4,000 monthly billing statements to obligors in certain situations. The three primary criteria for billing notices are:

- The case (civil file) is open to IV-D services;
- There isn't an active income withholding order or autowithdrawal on the file; and
- There is a court ordered support obligation (child, spousal, health insurance or due on arrears).

The billing notice lists the toll-free number to the SDU so an obligor can contact us with any questions or disagreements with the information in the notice. The billing notice also includes a payment slip that shows the address of the SDU and the name of the obligor so a payment received with the slip can be quickly and accurately processed when received by the SDU.

Parental inquiry. We offer a number of portals to parents to ensure their data are accurate and learn the current status:

- Interactive Voice Response system – each month we get about 26,000 calls from the 14,000 active registered users.
- Web – our childsupportnd.com website is one of the most active in state government. It's one of the five available when the ND homepage comes up. During the last three months, our website averaged 4,621 hits per day.
- Customer service staff are available at the CSE central office, the eight Regional Child Support Enforcement Units (RCSEUs) and at all the clerk of court offices.
- We have an incoming 800 number (800-231-4255) for people to use and are looking to expand that to the RCSEUs so customers can more easily reach their caseworkers.
- We expanded our customer access to Monday evening this summer to see if extended access would be better for customer service. An earlier Saturday effort resulted in few contacts so was discontinued.

Ledgers. Each parent can access his or her information, some of which is identical. Ledgers are subject to change for a number of reasons:

- Weekly, bi-weekly, or monthly accrual of additional current support according to the court order.
- Accrual of interest, currently 10.5%, on outstanding balances, calculated on the 15th of the month.
- Payments received from employers, the individual or through interception of other resources such as bank accounts, tax refunds, or social security payments.
- The court may retroactively change the obligation.

- Emancipation of a child.
- Recognition of direct payments between parents.
- Forgiveness by one parent or offset of arrears.

Thus, the ledger is dynamic. The balance reported today could change tomorrow and will again change in the near future, just as an active checking account will change and the balance shown when one calls the bank may not be the true balance but it is accurate based on the reported data.

When someone feels we have wrong account information we use their data to compare with ours to see what may have been missed. This includes a month-by-month comparison of debts and receipts to determine the specific months that are unpaid in an effort to pinpoint the discrepancy. If this preliminary review doesn't resolve the discrepancy, we send a copy of the payment history to the person alleging the discrepancy. We ask the parent to compare his or her records with ours and provide documentation supporting any discrepancy they find.

If the case predates FACSES or involves multiple states and separate pay records, we may review the other payment records prior to or in addition to sending the FACSES ledger. In some cases, usually when multiple pay histories need to be merged into one record or when there are numerous adjustments to our ledger, we do a worksheet.

In conclusion, we can provide an accounting in many ways for amounts owed and paid by obligors. It is not something we hide. To the contrary, we encourage parents to periodically obtain and review their account

information to ensure the data are accurate and we can provide appropriate customer service.

Driver's license suspensions

Driver's licenses can be suspended for nonpayment of child support by the courts as part of the contempt proceedings and by CSE as part of the enforcement process.

Historically, when the courts had the only authority to suspend driver's licenses, usage was very limited even though it is very effective for getting some people's attention.

The 2003 Legislature authorized administrative license suspension, including driver's licenses, as part of the simplification of enforcement activities so that we can better work with people before arrearages build to a point where the balances are unmanageable. See NDCC 50-09-08.6. This has led not only to an increase in the number of suspended licenses, but also to a significant increase in child support payments.

We recognize that many obligors are unable to immediately satisfy their arrears. As a result, while we prefer to collect the full balance immediately, we generally tie driver's license suspension to our efforts to negotiate a payment plan that will enable the parent to pay off all outstanding balances over a 10-year period.

In negotiating payment plans, the law requires an immediate payment of 5% of the arrears balance or \$500, whichever is greater, but also gives us some discretion to waive or reduce the down payment in certain

circumstances. As a general rule, we are more willing to negotiate the down payment for low income obligors or those who are entering their first payment plan. If need be, we will spread out the down payment over the first few months of the payment plan.

The second area addressed in the law on payment plans is the amount that an obligor is required to pay each month to comply with a payment plan. This amount can vary depending on the obligor's current circumstances and is negotiated on a case-by-case basis, but we are required to consider the amount that the obligor is required to pay each month by the court for purposes of income withholding. In other words, if the court order requires payment of \$200 in current support each month and 20% or \$40 per month towards the arrears, we will not agree to a payment plan of less than \$240. To do so would undermine the court. There are times when an obligor's current court order is higher than he or she can pay, and we will review those obligations, upon request, if they are at least 36 months old or meet other criteria for an earlier review.

As we encounter situations where the obligation is too high but the order is not eligible for review under our standard policies, we have implemented some options and are considering more. These include:

- Referrals to our PRIDE program, a collaborative effort of Job Service North Dakota, the courts, and DHS to help unemployed or underemployed obligors find and retain jobs.
- A pilot project with Legal Services of North Dakota to help obligors file their own motions to the court; and
- We are considering whether legislation would be warranted for the issuance of work permits that would allow the suspension to remain in place, but let a cooperative obligor drive to and from work.

So far, the flexibility we were given by the Legislature has allowed us to reinstate suspended licenses for cooperative obligors, but there may be a limited need for work permits.

Parents also have the opportunity to request judicial review if they believe we abused our discretion in suspending their driver's license.

As of June 2, 2008, our records show 955 administratively and 63 judicially suspended driver's licenses. We also have payment plans with 688 obligors who know their licenses will be suspended if they do not follow through on the payment plans.

In a nutshell, we don't want licenses. We want parents to take care of their children. Our license suspension experience is essentially the same as in other states. For some, this is the right tool. For others, license suspension is essentially meaningless.

Madame Chairman, that concludes my testimony. I'd be happy to answer questions.