

Testimony
Senate Bill 2258 – Department Of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 26, 2011

Chairman Lee, members of the Senate Human Services Committee, I am James Fleming, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Senate Bill 2258.

Senate Bill 2258 reflects the recommendations of a task force that was convened under Section 18 of 2009 House Bill 1175. The Business Relations Task Force's final report is attached to my testimony.

I would like to begin by thanking Chairman Lee on behalf of the Department for her service on the Business Relations Task Force and Senators Lee and Dever for sponsoring this legislation to improve our operations.

It has been another successful biennium for the Department of Human Services and the Child Support Enforcement (CSE) program. In 2010, our program performance ranked second in the country, based in part on obtaining orders in 89.78% of our IV-D cases, collecting 74.21% of current support in the month in which it is due, and making a collection toward delinquent support in 68.7% of the cases in which there was an arrearage. Our collection rates have allowed for the unpaid balance of arrears in IV-D cases, including interest, to decline from \$224.8 million in 2008 to \$223.54 million in 2010. With the nonIV-D receivables added, the statewide total at the end of 2010 was \$285 million.

Total collections have risen from \$122,734,000 in 2008 to \$123,420,000 in 2009 to a new record of \$128,974,000 in 2010. Roughly 90% of our annual collections are paid to families, with the balance sent to another jurisdiction for further distribution or retained to reimburse the taxpayers for expenditures from the TANF and Foster Care programs.

However, there is still more work to do. At the end of December 2010, we were trying to find an address, employer, or asset for 4,020 parents in our caseload. Obtaining these pieces of information is critical to requesting a court order for child support at an appropriate level and enforcing the order.

For comparison, at the end of the federal fiscal year, we had roughly 2,000 children in our caseload needing paternity to be established (out of 26,305 children in the IV-D caseload who were born out of wedlock); 3,786 court orders to establish (out of a total IV-D caseload of 37,030); and 9,138 cases with arrears in which there was no payment in the last year (out of a total IV-D arrears caseload of 29,191). There is an unmistakable correlation between locating parents and their employers or assets and improving our program performance from our current levels.

Given the work yet to do, several provisions in Senate Bill 2258 would be very helpful, either to improve our program's access to information or to create internal efficiencies.

I would now like to highlight some of the provisions in the attached task force final report.

With the report as background, I will summarize the sections of the bill into subject areas.

Electronic New Hire Reports and Payments (Sections 1 and 7)

Following the precedent set in the past two legislative sessions regarding reports filed by employers with Job Service North Dakota, the task force recommends mandating electronic filing and payment of funds for employers of more than twenty-four employees. The legislation also borrows from existing law regarding the state tax department and gives CSE the authority to waive the electronic filing requirement if the employer can show "good cause" for why electronic filing is not feasible for the employer.

Insurance Matching – Phase One (Section 2)

Last session, when a mandatory match was being considered, many questions were raised about the meaning of certain words or phrases in the proposed language and how the process would work. In response, the task force recommends the changes in Section 2 of the bill. In particular, the amendments would give greater flexibility to the insurance agency and CSE to determine the best time to notify the claimant of the lien.

Another area that generated significant discussion is whether the data match needs to include a person's social security number. This is an area where privacy has to be balanced with the risk of mistaken identity. In the end, a match under the bill can be based on a person's name, date of birth, and one of three alternative pieces of additional information: social

security number, the last four digits of a social security number, or a North Dakota-issued motor vehicle operator number. This is not as straightforward a match as the full social security number, but CSE feels we can make it work.

Insurance matching of this type is occurring across the country, and CSE currently has arrangements in place with the multi-state Child Support Lien Network and a match process sponsored by the federal Office of Child Support Enforcement.

Because these amendments would improve the existing process and clarify current law, Section 2 is the only section of the bill that would be effective on August 1, 2011.

Insurance Matching – Phase Two (Sections 3, 4, and 17)

A majority of the task force recommends that the insurance match become mandatory on August 1, 2013. CSE would prefer an earlier effective date, but the delay will help give sufficient time for CSE and the insurance industry to work together toward a smooth implementation of the law. As part of the mandatory match, the bill adds a deadline for submitting personal information about a claimant, a method for enforcing the requirement against a reluctant insurance company (similar to employers and income withholding), and a sanction for a claimant who refuses to provide his or her personal information.

New Hire Reporting of Independent Contractors (Section 5, 6, and 8)

In many cases, independent contractors provide services to an employer on an ongoing basis that are very similar to the services provided by employees. Both can be subject to an income withholding order; however, CSE may not learn of an independent contractor because the current new hire reporting requirements are limited to employees. A majority of the task force recommends this be changed.

Neither an employer nor CSE are well-served by reports of new hires that do not lead to locating a parent or identifying sources of income to an obligor. Thus, the type of independent contractors who must be reported is very limited:

1. An individual, or organization owned exclusively by an individual, who provides services (as opposed to goods);
2. The services are provided in the employer's trade or business;
3. Aggregate payment is sufficient for the employer to be required to file an IRS 1099-MISC or similar form;
4. Services which are NOT provided on an emergency basis; and
5. Services which are expected to be provided on a recurring basis.

All five elements above must exist before an employer is required to report an independent contractor. This change would not be effective until January 1, 2012.

New Hire Reporting of Health Insurance Information (Section 6)

Our medical support program requirements are in a state of flux based on federal health care reform and a regulation that was issued before the federal law was passed. However, our present program requirements include a requirement to identify health insurance that is available to the child. Today, when we receive a report of a new hire and the employee is a parent with a child support case, CSE follows up with the employer to determine whether health coverage is available.

Under the task force proposal, the communication with the employer can be avoided, and the time spared, if the new hire report includes an indication whether health insurance is offered to the employee or contractor. If the indication is "no," then no further contact is needed. If the indication is "yes," than CSE can work with the employer to determine the terms and conditions of the coverage. This change would not be effective until January 1, 2012.

Child Support Lien Registry (Sections 9 through 16)

As mentioned in the task force report, the current lien process on real and personal property for child support arrears is not ideal, because arrears balances can change and CSE will not always know the location of the obligor's property.

The task force recommends the creation of a Web-based lien registry, similar to the registry offered in Wisconsin. The lien registry would be available to the public and support a search by last name and other

information (including social security number) provided by the person using the Web site.

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Lien Docket

Search by Name

Last Name: (required)
First Name:
Middle Name:
Date of Birth: / / (mm/dd/ccyy or ccyy)
SSN: (Last 4 digits)

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If there is no match, the Web site provides a response that can be printed to show that the search occurred:

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Lien Docket Search Results

Lien Docket information as of 1/25/2011 10:44:24 AM

Your search returned 0 record(s).

A Participant matching your search criteria was not found. You may want to broaden your search to ensure that you have not eliminated a potential match.

Current Search Criteria: Last Name=Fleming, First Name=James

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In the event of a match, the registry would list the obligor's first and last name, date of birth, and amount of arrears.



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Lien Docket Search Results

Lien Docket information as of 1/25/2011 9:57:23 AM

Your search returned 1 record(s).

[Narrow Search](#)

Name	Date of Birth	Docket #
FLEMING, JIMMY L	12/25/1979	185544

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The registry would also provide information regarding the child support office that needs to be contacted for further information.



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Lien Docket

Lien Docket Detail

Lien Docket information as of 1/25/2011 9:58:44 AM

Name:	FLEMING, JIMMY L	Lien Amount:	\$17,827.60
Date of Birth:	12/25/1979	End Date:	N/A
Docket #:	185544	End Reason:	N/A
Filing Date:	08/06/2006		
Child Support Agencies with Lien:	Brown	Contact Child Support Agency:	Brown
			Contact CSA List Link

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Under the bill, a lien arises by operation of law on all the obligor's real and titled personal property in North Dakota, regardless of the county in which the property is located. As an arrears balance grows, so too does

the amount of the lien. Combined with the search features on the Web site, this will be a powerful tool for collecting additional child support. This change would not be effective until January 1, 2012.

Madame Chairman and members of the committee, this concludes my overview of the task force work and Senate Bill 2258, and I would be glad to answer any questions the committee may have.