

Testimony
Senate Bill 2068 – Department Of Human Services
Senate Natural Resources Committee
Senator Stanley Lyson, Chairman
January 15, 2009

Chairman Lyson, members of the Senate Natural Resources Committee, I am James Fleming, Deputy Director and Chief Legal Counsel of the Child Support Enforcement Division of the Department of Human Services. The Department strongly supports efforts to reduce identity theft, but must regrettably request a “Do Not Pass” recommendation from the committee regarding Senate Bill 2068.

As a condition of receiving federal funds for the Temporary Assistance to Need Families and Child Support Enforcement programs, the state “must have in effect laws requiring the use of the following procedures . . . Procedures requiring that the social security number of – (a) any applicant for a professional license, driver’s license, occupational license, recreational license, or marriage license be recorded on the application.” 42 United States Code Section 666(a)(13).

There is limited authority in the federal law for a state to obtain an exemption from this requirement if the state demonstrates “that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program” 42 United States Code Section 666(d).

Last legislative session, in response to similar concerns, we drafted and supported legislation to seek a federal exemption for using only the last four digits of a social security number for certain licenses. The

licenses selected for the exemption were those that were completed at various places of business in North Dakota and stored at the place of business for a significant period of time, instead of being submitted by the applicant directly to the Game and Fish Department (through the mail, in person, or over the Internet). Combined with other information provided on the application, this exemption preserved the effectiveness and efficiency of our current match processes with the Game and Fish Department. As a result, the federal government granted the exemption, which took effect in 2008.

The Department remains willing to request any exemption that can reduce the use of social security numbers yet preserve the effectiveness and efficiency of our existing match process with the Game and Fish Department. In addition to seeking federal confirmation that this legislation as currently drafted would take North Dakota out of compliance with federal requirements, we have asked whether other states have obtained exemptions in this area that provide more protection from identity theft than in current North Dakota law. However, we are unsure what kind of exemption could be requested or approved, and we would invite the committee's guidance in this area.

The Department will continue to monitor this area in the event that an exemption granted to another state appears workable in North Dakota, so appropriate legislation can be prepared.

In conclusion, the Department feels that the State is between a rock and a hard place with this bill as currently drafted: take an additional step to protect against identity theft, or preserve federal funding for

two successful and valuable programs for North Dakota's children. Considering the exemption obtained as a result of the 2007 legislation, the Department respectfully suggests that the better course is to avoid jeopardizing federal funding for the Temporary Assistance to Needy Families and Child Support Enforcement Programs, and for the committee to recommend a "Do Not Pass" on Senate Bill 2068.

Mr. Chairman, this concludes my testimony, and I would be happy to respond to any questions the committee may have.