

Testimony
Engrossed House Bill 1392 – Department Of Human Services
Senate Judiciary Committee
Senator Kelly Armstrong, Chairman
March 8, 2017

Chairman Armstrong, members of the Senate Judiciary Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here in a neutral capacity to provide some information to the committee on Engrossed House Bill 1392 and to [recommend an amendment](#).

As of January 1, 2017, there were roughly 26,000 cases in North Dakota with an accruing monthly child support obligation, with 1,658 of those cases having residential responsibility being shared equally between the parents. Although this represents only 6.3% of the total, there were only 400 such cases in 2011, and the total number of cases includes parenting time orders entered by the court over the last 18 years. It is clearly a growing trend under current law for parents to obtain equal parenting time.

There are many myths about the child support program. The reality is that our program has no preference for cases with equal parenting time as compared to cases where one parent has primary residential responsibility, as long as the parties or their attorneys follow the child support guidelines correctly.

Under federal law, the North Dakota child support guidelines must be applied in all cases where the parents are no longer living together. In general, when one parent has primary residential responsibility, the guidelines are used to establish an obligation for the other parent (known

in our program as the absent parent or obligor, since the parent is not present in the child's household on a daily basis). Similar to income taxes, the absent parent's obligation is based on the parent's income or earning ability. Although frequently misunderstood by our customers, the fact that the guidelines only take into account the income of the absent parent does not mean that the parent with primary residential responsibility lacks a child support obligation. Rather, the obligation of the absent parent is best described as a contribution toward support of the child, with the remaining costs of the child being the responsibility of the parent with primary residential responsibility. The average child support obligation in North Dakota per child is less than \$365 per month. In our experience, the parent with primary residential responsibility usually bears more of the actual cost of supporting a child, particularly when both parents have low incomes.

If the court order gives an absent parent sufficient parenting time with the child to reduce the expense of supporting the child to the parent with primary residential responsibility, then the absent parent's child support obligation is reduced through an extended parenting time adjustment. The criteria for this adjustment were expressed by the Legislature several sessions ago, in recognition of the fact that some costs of raising the child (such as the difference between a one-bedroom and two-bedroom dwelling or child care) are constant.

The method I just described for cases where one parent has primary residential responsibility and a child support obligation is calculated for the other parent does not work for cases where the parents have equal parenting time. In those cases, the income of each parent is considered and a separate obligation for each parent is established. For simplicity

and practicality, the obligations are offset with each other for payment purposes. A payment credit for the lesser amount is entered on the payment ledger for each parent, and the parent with the greater obligation owes the net difference between the two obligations.

This information is provided to illustrate a potential source of confusion arising out of Engrossed House Bill 1392 between the use of equal parenting time in the bill and the meaning of equal parenting time in the child support guidelines. Since Engrossed House Bill 1392 envisions cases where one parent's time with the child could be as low as 35%, we suggest the phrase "shared parenting time" would be more accurate than "equal."

Mr. Chairman and members of the committee, this concludes my testimony regarding Engrossed House Bill 1392, and I would be glad to answer any questions the committee may have.