

Final Report

Child Support Enforcement Business Relations Task Force June 10, 2010

As required in 2009 House Bill 1175, a task force was convened by the Department of Human Services to study the interaction of the business community and the child support enforcement program.

The study must include strategies for encouraging voluntary participation in electronic data matches, the feasibility and desirability of mandatory data matches or mandatory electronic transfer of information, the identification of potential sources of income and asset information regarding child support obligors, the creation of a lien registry for property owned by a delinquent child support obligor, and the development of procedures for conducting data matches that are secure and limited to the information needed to assist in the establishment and enforcement of child support and medical support orders.

2009 House Bill 1175, § 18.

This report contains the Task Force's findings and recommendations, and implementing legislation, for presentation by the Department of Human Services to the 2011 Legislative Assembly.

Summary of Recommendations

- The Task Force recommends that the Department of Human Services continue to work to improve communication with, and assistance to, the business community.
- The Task Force recommends that the Department of Human Services increase its efforts to enter into data match agreements with the business community.
- The Task Force recommends the enactment of certain legislation intending to increase the amount of information exchanged between business and Child Support Enforcement and to improve the process through which the information is exchanged. Areas addressed in the proposed legislation include a lien registry, insurance matching, electronic remittal of funds withheld under income withholding orders, electronic reporting of new hires, and reporting of independent contractors who provide personal services on a recurring basis.

Background

The success of the services provided to children, families, and taxpayers by the Child Support Enforcement program (CSE) in the Department of Human Services depends heavily on the support of the business community. In order to successfully establish and enforce paternity and child support orders, CSE needs to know where parents are living and working. In addition, several industries commonly hold assets on behalf of, or owe money to, parents who owe child support.

In various forms during the 2009 Legislative Session, House Bill 1175 included proposals that expanded the interaction of CSE and the business community. Representatives of the business community testified regarding the legislation with questions or concerns. As a result, Section 18 of HB 1175, as enacted, directed the Department of Human Services to invite representatives from the financial, insurance, employer, public utility, and business communities to participate on the Task Force and study the interaction of CSE and the business community. The goal was to facilitate a discussion of the common good served by CSE and ways that the business community can support CSE without unduly interfering with existing business practices.

Purpose of Study

Goal. The goal of studying the interaction of the business community and CSE is to improve and expand existing business practices so CSE is provided more information regarding parents without unduly adding to the burden on the business community of providing information to CSE.

Objective. The objective is to examine the instances where the business community and CSE currently interact, or potential new areas of interaction, and determine the method(s) of communicating information that strike the optimum balance of the amount of resources required from the business community to provide information to CSE and the value of the information to best meet the needs of children, families, and taxpayers.

Success. The success of the recommendations will be measured by the number of missing parents who are located, the number of new employees that are identified, a reduction in the delay and errors in the current process for providing new hire information or remitting funds, and the number of cases with a collection of child support that can be attributed to increased matching of information.

Justification. Just as it takes a community to raise a child, a parent's failure to support a child can have a negative impact on the community. Examples include poor performance in school, increased juvenile delinquency, increased likelihood of health problems, and increased reliance on public assistance programs. In one form or the other, a parent's failure to support a child leads to increased costs to the public at large and greater burden on taxpayers, and thus the CSE program was created to establish and enforce child support orders.

Although mandates on the business community usually result in costs that are passed through to customers, industry-wide mandates should result in a comparable cost being borne by all

members of the public. The savings to the public from the mandates will come from improved support of children and avoidance of the problems identified in the paragraph above.

Initial Expectations. Several of the Task Force recommendations pertain to the operation of CSE within its existing statutory authority, and should immediately improve the quantity and quality of information that is provided to CSE and act as a catalyst for additional case activity. The remaining recommendations pertain to legislation that, if enacted, will generally not become effective until 2012 (August 2013 in the case of mandatory insurance matching). This will give the business community valuable time to anticipate any changes to existing business practices. Based on data compiled as of September 30, 2014, which is the close of the second federal fiscal year after the recommended laws go into effect, one would expect an increase in the number of orders established, percentage of current support collected, the number of cases with a collection on arrears, and CSE's cost-benefit ratio.

Findings

- A significant number of child support obligors are not forthcoming with CSE regarding their address, employer, or assets, which requires CSE to search for that information from other sources.
- New hire reporting and income withholding are federal mandates and widely-accepted responsibilities of all employers.
- There is still significant room for improvement in the percentage of new hires that are reported to CSE.
- Income withholding is effective and generally honored by employers.
- Electronic reporting of new hires and remittal of funds is more efficient and less prone to error.
- The ability of a business to maintain its own profile on the CSE website would reduce the need for case-specific inquiries to the business and save time.
- Government entities should be expected to provide the same amount of information as private business, if not more.
- A business that chooses to cooperate with CSE in a greater manner than its competitors may find itself at a competitive disadvantage, compared to industry-wide mandates that create a level playing field for all businesses in a given industry.
- A business should not be exposed to an increased chance of litigation as a result of cooperating with CSE and honoring its directives.
- The reimbursement provided to the business community for cooperating with CSE rarely covers the actual costs to the business community, and thus satisfies a cost-benefit

analysis only after the value of the information to the public is added to the analysis and the exchange process is made as efficient as possible.

- The existing county-by-county docketing process to obtain a judgment lien on real property is not efficient for CSE because arrears balances regularly change and the location of the obligor's interests in real property is not always known.
- The use of child support liens on personal property should not unduly impair commerce or harm innocent third parties.
- Computerized data matching has great potential for identifying parents in CSE cases with a minimum of effort, particularly when one considers the large number of parents in North Dakota with child support cases.
- Insurance matching must be conducted carefully to avoid changes in the claims process that lead to significant statewide increases in insurance premiums.

Recommendations

The Task Force recommends that the Department of Human Services:

- Continue to review and expand its outreach to the employer community regarding new hire reporting requirements;
- Develop a functionality on the Department's website for business to maintain a profile that contains helpful information regarding the business, its payroll cycle and benefits, and any health insurance benefits offered by the business; and
- Increase its pursuit of data match agreements or subpoenas with public utilities and other businesses and sources of information.

The Task Force also recommends that legislation be enacted to:

- Follow the precedent of Job Service North Dakota and require employers of more than 24 employees to use electronic methods to report new hires and remit money that has been withheld pursuant to income withholding orders;
- Require new hire reporting of independent contractors who provide recurring services similar to those provided by employees and for which an IRS 1099-MISC form must be filed;
- Create a lien registry, patterned after the Wisconsin lien docket, which creates liens by operation of law on all real and titled personal property, and operates in a way that does not conflict with standard business practices that currently exist.

- Make improvements to the existing voluntary insurance matching process, and require matching of insurance claims with child support obligors effective August 1, 2013.

Areas Lacking Consensus

In the course of the Task Force's discussions and consideration of bill drafts, there were some areas in which consensus could not be reached that need to be addressed in this report.

The legislation requiring new hire reporting of independent contractors was supported by a majority, but not all, of the task force members.

By a narrow vote, a proposal to increase the compensation to financial institutions for participating in the data match process was not recommended. Those in favor of the proposal argued that the cost of the data match greatly exceeded the \$25 per quarter that is currently offered by the Department. Those against the proposal generally felt that participating in the data match is an industry-wide expectation for which additional compensation should not be provided, given the competing demands for state general funds.

Each Task Force meeting included considerable discussion on whether to mandate insurance matching, or retain the voluntary process in current law. The Task Force members on both sides of the question worked cooperatively to draft a mandatory bill that was as clear as possible. In the end, the final decision of the Task Force was to recommend certain improvements in the existing voluntary match process that would become effective on August 1, 2011, and to require insurance matching with an effective date that is delayed until after the 2013 Legislative Session (August 1, 2013).

Conclusion

Information regarding parents, their employers, and their assets can be possessed by a multitude of businesses or entities that may not even be aware of the value of the information to CSE. CSE must remain active in communicating with the business community and exploring new sources of information, while recognizing that there are times when the aggregate cost to the business community of providing information will exceed the benefit of the information unless an efficient method of exchanging information can be created. Thus, in the future, CSE's attention should remain not only on identifying new sources of information, but also working on methods of exchanging information that are efficient and minimize the burden on the business community.