

January 25, 2023

Testimony to the **Senate Transportation Committee**

Submitted By: Jesse Walstad on behalf of the ND Association of Criminal Defense Lawyers

Testimony **in Support of S.B. 2219**

Chairmen and Members of the Senate Transportation Committee:

My name is Jesse Walstad and I represent the ND Association of Criminal Defense Lawyers. The NDACDL is made up of lawyers throughout our state who dedicate a portion of their practice to criminal defense. The mission of the NDACDL is “to promote justice and due process” and to “promote the proper and fair administration of criminal justice within the State of North Dakota.” With that mission in mind, the NDACDL **supports S.B. 2219** and recommends a **DO PASS** from the Senate Transportation Committee.

Presently, N.D.C.C. § 14-08.1-07 and related statutes, permit driver’s licenses suspensions or withholding of driving privileges from obligors who accumulate child support arrears in an amount equal to or greater than three times the monthly support obligation and those who for one reason or another may fail to comply with a subpoena related to paternity or child support. The public policy behind the statutory framework is to discourage those who would abdicate their legal obligations to their children. The most glaring flaw in the one size fits all policy is that it harms children whose obligor parents are living on the financial margins but are making honest good faith efforts to earn sufficient disposable income to meet their support obligations.

To comply with support obligations parents must be able to maintain gainful employment sufficient to meet their obligations. Deprivation of driving privileges substantially reduces access to gainful employment, and in many cases may result in termination of employment. The vast majority of North Dakotans do not live or work in areas adequately served by public transportation, further complicating the problem caused by the one size fits all statute which has a desperate impact in rural areas. The economic forces brought on by the COVID pandemic and escalating inflation have further compounded the problem for many. When parents on the margins lose employment, suffer diminished hours or wages, face rising costs of living, or unanticipated medical problems they may accrue arrears for a period despite their best efforts. Even one of life’s unanticipated expenses, such as a furnace or transmission going out, can seriously disrupt good faith support efforts. When any one of these events occurs and a parent on the margins accumulates arrears and loses their driving privileges their ability to maintain gainful employment to dig out of the financial hole rapidly deteriorates, resulting in a cycle of non-payment with diminished hope of recovery. In that way, the present statute often sets in motion a chain of events that results in harm to their respective children, in contravention of the noble underlying public policy.

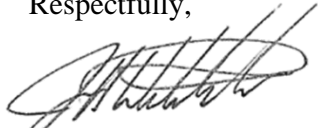
Aside from the financial quicksand, there are other negative externalities. The parent deprived of driving privileges must struggle to overcome substantial daily transportation obstacles in order to buy groceries, attend medical appointments, maintain visitation, and transport kids to and from school, daycare, and other necessary activities. Each of these obstacles, and countless others, presented by one size fits all suspensions run a significant risk of harm to the supported children. Temporary Restricted Licenses do not cure the problem because they may be inaccessible to many. The application and increased insurance costs serves as an economic bar to many living on the margins. Even if the parent can afford the application and insurance costs they may lose employment before the TRL is issued. Once issued, any operation outside of the ambiguous “necessities” puts the operator in jeopardy of misdemeanor prosecution for driving under suspension, along with all the personal and financial costs inherent in criminal prosecution.

If adopted, S.B. 2219 would take necessary steps towards ending this vicious cycle for many. The bill would permit driver’s licenses suspensions as a discretionary sanction within the Court’s judicial purview. Our District Court judges would retain the broad authority to impose remedial and punitive sanctions in many

forms, including but not limited to suspension of driving privileges. However, under S.B. 2219, if approved, our District Court judges could exercise reasonable discretion based on the unique circumstances of each case with the ultimate goal of maintaining accountability and enforcement while fashioning remedial measures most conducive to accomplishing the public policy goal – ensuring financial support to children.

For the aforementioned reasons, the NDACDL urges a **DO PASS** on S.B. 2219.

Respectfully,



Jesse Walstad