

Testimony
Senate Bill No. 2219
Senate Transportation Committee
Senator David Clemens, Chairman
January 26, 2023

Chairman Clemens and members of the Senate Transportation Committee, I am Jim Fleming with the Child Support Section of the Department of Health and Human Services (Department). I appear before you to provide information regarding Senate Bill 2219.

Senate Bill 2219 would remove the authority of a court to suspend a motor vehicle operator's license for failure to pay child support. Judicial license suspension was enacted in 1997 to comply with many new federal mandates in the welfare reform law, including a requirement that the state have "Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings." 42 United States Code Section 666(a)(16). If North Dakota law does not provide for these procedures, it will lose all federal funding for the Temporary Assistance for Needy Families (TANF) program and the Child Support program.

In 2003, out of frustration that the courts rarely suspended licenses despite a growing amount of unpaid child support, the Legislative Assembly passed legislation giving the Department authority to suspend

licenses by administrative order. North Dakota Century Code Section 50-09-08.6.

Senate Bill 2219 as introduced does not modify the Department's administrative license suspension authority, which is why the Department does not oppose the bill as introduced and why there is no fiscal note. However, we understand an amendment may be offered which would remove our administrative license suspension authority. If both judicial and administrative suspension authority were proposed to be repealed, the Department would need to oppose the bill because of the severe negative impact on child support collections and the loss of all federal funding for TANF and Child Support. North Dakota would lose more than \$75 million per biennium.

Regardless of the federal requirement, the Department encourages you to continue supporting its administrative license suspension authority. There is more than \$250 million in past-due child support owed in North Dakota, with another \$25 million that becomes due and unpaid every year. Used selectively, administrative license suspension is the Department's most effective tool for working with parents who owe past due support.

As of December 31, 2022, out of 32,797 open cases being enforced by our program, there were 14,786 parents owing past due support and of that number, 2,913 currently had a license of some kind (recreational, driver, motor vehicle, professional, or combination of all four) administratively suspended or denied due to failure to pay child support. Of those 2,913 suspensions, 153 are "new" in the sense that the license

was suspended in the last three months and the chances are still good that the parent will negotiate a payment plan with the Department.

Of the 80.3% of parents who owe past-due child support yet are not suspended, 928 parents are current in a payment plan negotiated with the Department and are regularly paying to avoid license suspension.

The reason only 19.7% of delinquent parents are suspended is because the Department is selective in pursuing license suspension.

Administrative license suspension, as opposed to judicial license suspension, is a much more responsive process. A parent who negotiates a payment plan with the Department has his or her license reinstated overnight. A failure to honor the payment plan causes immediate communication from the Department to the parent to restore compliance, as opposed to waiting months to get back in front of the court.

Although the notion of such suspension can seem counterproductive, the key is what occurs prior to such a suspension in terms of the potential of such a suspension to motivate the parent to communicate with child support and develop an agreeable plan for payment. The Department's practice is to be generous in negotiating payment plans to avoid suspension or reinstate licenses, particularly knowing that failure to make the agreed installment payments in the plan will be quickly identified from the payment records we maintain. Often, a notice of intent to suspend prompts communication with a parent who reveals that he or she has suffered a job loss or other loss in income warranting a lower child support obligation, which we pursue with the court prior to making a final decision whether to suspend.

The administrative license suspension process begins with a 30-day written notice to the parent that describes the Department's intent to suspend the license unless the past-due support is paid in full or the parent signs a payment plan. The flexibility of the Department's administrative license suspension process comes from its ability to negotiate payment plans with parents who owe past due support:

An obligor and the state agency may enter into a payment plan under which the obligor agrees to satisfy the obligor's total child support obligation, including arrears, within a period not to exceed ten years. A payment plan under this section must require the obligor to make an immediate payment to the state disbursement unit in an amount equal to five percent of the total arrears owed by the obligor or five hundred dollars, whichever is greater. The state agency may waive or reduce the immediate payment that is due under a payment plan if the obligor's current or most recent monthly support obligation is less than five hundred dollars. The state agency may require that a payment plan under this section include satisfaction of all court-ordered child support obligations of the obligor. The obligor's current or most recent monthly support obligation under section 14-09-09.30 must be considered when determining the duration of a payment plan under this section and the payments due under the agreement. A payment plan under this section is not a modification of any child support obligation of the obligor and does not bar judicial review of a child support order under section 14-09-08.4 or other enforcement actions by the obligee or the state agency.

Accrual of interest on unpaid child support is suspended while the plan is in effect. If a payment plan is violated, the child support case manager is notified to review the case to determine if re-suspension is appropriate, and the negotiation process is repeated.

Suspending a license for failure to pay child support is not the same as suspending a license for failure to pay fines or fees – the money collected goes to families rather than reimbursing the government. The collection of child support promotes family self-sufficiency. Studies have shown that for every dollar of child support paid to families, nineteen cents of costs are avoided by other public assistance programs. Unlike fines or fees, child support obligations are based on the income of the parent. Perhaps most importantly, the administrative license suspension process is supported by a robust array of services offered by the Department to avoid suspension or reinstate licenses quickly when a payment plan is reached rather than holding out for full payment of the debt.

In conclusion, the judicial license suspension process is hardly ever used, because of the flexibility and effectiveness of the administrative license suspension process. If Senate Bill 2219 is enacted as introduced, families can simply apply for child support services and administrative license suspension will be available if needed to enforce the obligation.

However, if Senate Bill 2219 was amended and enacted to prohibit both judicial and administrative license suspension for nonpayment of child support, families would lose millions each year in uncollected child support and North Dakota would lose roughly \$75 million per biennium in funding for the TANF and Child Support programs.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.