

Testimony
Senate Bill No. 2080
Senate Judiciary Committee
Senator Diane Larson, Chairman
January 13, 2025

Chairman Larson, and members of the Senate Judiciary Committee, I am Jim Fleming, Child Support Director with the Department of Health and Human Services (Department). I appear before you in support of Senate Bill No. 2080, which was introduced at the request of the Department.

The bill proposes several law changes to improve customer service and internal operations. For the child support program, given the cost of hiring an attorney and the intimidation many people feel about going to court, customer service often entails expanding the case management that the Department can do out of court with the consent of both parents.

Section 1:

The proposed change in Section 1 clarifies that a non-attorney employed by the Department who is familiar with a child support case, usually a case manager or a legal assistant, can request a contempt hearing. This change aligns language in Century Code with standard practice.

Section 2:

The proposed changes in Section 2 improve the management of a child support obligation after a child turns 18. Generally, child support can be extended beyond the child's 18th birthday if the child is still attending high school AND living with the parent to whom the child support is owed. Currently, the extension is considered shortly before the child's 18th birthday and remains in place until the child goes through the graduation

ceremony in the late spring. Currently, if the child remains in high school but no longer lives with the parent to whom the child support is owed, the parties would need to go to court to stop the child support obligation. This would now be changed if the recipient parent agrees that the child is no longer living with him or her. In addition, the bill would create a process where the court could order the obligation to stop accruing if the child completed all coursework in the winter but the graduation ceremony was not scheduled until late spring.

This section also revises terminology from affidavits to declarations, which can be provided remotely by a customer without a notary.

Section 3:

The proposed changes in Section 3 will give the court more time to schedule a protest hearing for health insurance premium withholdings required under a national medical support notice. The 10-day deadline in current law for holding a hearing is a very aggressive schedule for the court.

Section 4:

The proposed changes in Section 4 simplify the termination of parental rights process. Currently, a termination of parental rights does not terminate the parent's obligation to support the child unless the court specifically determines that retaining the ongoing obligation is contrary to the child's best interests. This begs the question how specific the court order needs to be. In many cases, the court orders forget to mention whether child support should continue accruing, and erroneously assume the termination automatically stops the child support obligation. In the Department's experience, very little support is collected from parents

after their rights are terminated. The Department feels the termination process will be cleaner and more efficient if a termination of parental rights automatically includes termination of the duty to support the child.

Section 5:

The proposed changes in Section 5 are similar to changes in Section 2 and revise terminology from affidavits to declarations.

Section 6:

The proposed change in Section 6 removes the requirement for the Department to operate offices in each of the eight planning regions in the state. This language was added in 2007 when administration of the child support program was transferred from the counties to the Department. At that time, the language provided reassurance to the county child support employees that their positions were not going to be transferred to Bismarck. 18 years later, that is no longer a concern, and we believe the current language is obsolete.

Section 7:

The proposed change in Section 7 removes an inequity for parents who are owed past-due child support. Currently, interest stops accruing on a past-due support obligation during the protest period for certain collections, even though the parent has not received the payment and the payor has the opportunity to authorize the payment to be released.

Section 8:

The proposed change in Section 8 would repeal the following statute:

50-09-32. Disclosure of identity of child support obligors.

1. To the extent permitted by federal law, the state agency may disclose information to the public about a parent whose location is unknown or about an obligor who is listed on the arrears registry and owes past-due child support in an amount greater than ten thousand dollars, including the person's name, last-known address, date of birth, occupation, photograph, amount of child support owed, the number and ages of the children for whom support is owed, and any other information that would assist in locating the person.
2. Prior to disclosing information about an obligor under this section, the state agency shall send to each obligor whose name will be released a notice by regular mail to the obligor's last-known address. The notice must contain the information the state agency plans to release and give the obligor thirty days to object to the accuracy of the information. The notice must state that the obligor may avoid public disclosure of the information under this section if the obligor provides the state agency with the obligor's current address and employer and makes a child support payment in an amount equal to the amount of child support the obligor is required to pay each month under section 14-09-09.30. Information regarding an obligor who owes any past-due support may be disclosed if at any time after receiving a notice under this subsection the obligor fails to make a required child support payment in an amount determined under section 14-09-09.30.
3. The state agency shall obtain the written consent of the obligee before disclosing information regarding an obligor under subsection 1.
4. The state agency must develop and maintain a list of the names, addresses, and amounts of past-due support owed by obligors who

have been found in contempt of court in this state for failure to comply with a child support order or who have been found guilty of willful failure to pay child support under section 12.1-37-01.

Notwithstanding subsections 2 and 3, to the extent permitted by federal law, the state agency must release the list upon request under section 44-04-18. The state agency may remove from the list any obligor who no longer owes past-due support, any obligor who is deceased or whose obligation is being enforced in another jurisdiction, or any obligor whose conviction under section 12.1-37-01 has been sealed.

5. The state agency, its employees and agents, and any person publishing information that is disclosed under this section is immune from any civil or criminal liability resulting from the disclosure of information under this section.

The Department has never used the authority in subsections 1 through 3 of the law. For the list of parents found in contempt of court required in subsection 4 of the law, the courts no longer use the state child support computer system to track the outcome of contempt proceedings, so the list is no longer able to be automatically generated from that system and needs to be gathered manually. In addition, the list of contempt findings on the Department's website covers the entire life of the case, and the list often does not reflect the current status of the case. The Department believes publication of this list is not sufficiently beneficial for child support collections to warrant the time that would be required to continue preparing the list without automated support.

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