

1999 HOUSE HUMAN SERVICES

HB 1029

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1029

House Human Services Committee

Conference Committee

Hearing Date 01-13-99

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|------------|
| 1 | | x | 16.7- 47.6 |
| 2 | x | | 25.5 |
| Committee Clerk Signature <i>Amanda Stein</i> | | | |
| | | | |

Minutes:

SUMMARY OF BILL: Relating to the child support guidelines; definition of gross income.

Jennifer Clark, Legislative Council, is neutral on bill, served on the interim committee that drafted and is introducing bill. She explained the components of the bill. For overtime, courts can determine if the child is in need of this support. In considering overtime, it must be voluntary and not mandatory as included in income for payment calculations. She then answered several questions relating to including income or not including income. If there is question during administration, a judge will decide.

Mr. Dan Biesheuvel, lobbyist for R-Kids of North Dakota, spoke in support of the bill.

(see attached written testimony)

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House Human Services Committee

Bill/Resolution Number Hb 1029

Hearing Date 01-13-99

Mr. Ken Hendrickson, representing self, spoke in support of the bill. He had a comment on the language relating child care.

Mr. Blaine Nordwall, Department of the Human Services spoke against the bill.

(see attached written testimony)

Ms. Sherry Mills Moore, State Bar Association of ND, spoke neutral on the bill.

(see attached written testimony)

Chairwoman Price closed the hearing on the HB 1029.

Motion by Representative Metcalf, do not pass, Second by Representative Porter.

By roll vote, 15 voting yes, 0 no, motion carried.

Representative Metcalf will carry.

Date: 1-13-99
Roll Call Vote #: HB 1029

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Human Services Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do not pass

Motion Made By Metcalf Seconded By Ponten

| Representatives | Yes | No | Representatives | Yes | No |
|-------------------------------|-----|----|-------------------|-----|----|
| Clara Sue Price - Chairwoman | X | | Bruce A. Eckre | X | |
| Robin Weisz - Vice Chairwoman | | | Ralph Metcalf | X | |
| William R. Devlin | X | | Carol A. Niemeier | X | |
| Pat Galvin | X | | Wanda Rose | X | |
| Dale L. Henegar | X | | Sally M. Sandvig | X | |
| Roxanne Jensen | X | | | | |
| Amy N. Kliniske | X | | | | |
| Chet Pollert | X | | | | |
| Todd Porter | X | | | | |
| Blair Thoreson | X | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

Total (Yes) 14 No 0

Absent 1

Floor Assignment Metcalf

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 20, 1999 9:28 a.m.

Module No: HR-05-0879
Carrier: Metcalf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1029: Human Services Committee (Rep. Price, Chairman) recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1029 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1029

Fact Sheet: Child Support Enforcement Division

What is it? Child Support Enforcement is a joint state, county, and federal partnership to collect child support to ensure that children have the financial support of both their parents, to foster responsible behavior toward children, and to reduce welfare costs.

Who does the division serve? Our primary customers are the children for whom we collect funds for their support and medical care. We also serve custodial and non-custodial parents.

What services are provided? Working with the Regional Child Support Enforcement Units, we locate non-custodial parents, establish paternities, establish court ordered child support and medical support, and periodically review and adjust support obligations.

Who can apply for services? Either parent can apply for services. Applicants for TANF, Medi-caid, or Foster Care are referred to us for service.

Are there fees? We do not charge a fee for services.

How is the division funded? The federal government provides 66% of our budget; the state is responsible for the rest. The Regional Child Support Enforcement Units are responsible for their costs, generally relying on local property taxes.

How much is collected? Through the combined efforts of the regional units, the state office, and the federal government, our collections continue to increase at double digit rates each year. In calendar year 1998, we collected \$40.8 million, an 11.65% increase over 1997. In contrast, we collected \$12.1 million in 1990.

Where does the money go? Most of the amounts collected are sent to the families. A portion is retained to repay the federal, state, and county governments for TANF, Foster Care, and Medicaid payments made on behalf of families.

What about the penalty? The division is currently under federal penalty because we did not get FACSES, our Fully Automated Child Support Enforcement System, sufficiently developed to meet federal certification standards. The penalty, a percentage of the federal administrative funds available to us, was \$125,000 for 1998 and \$250,000 for 1999. We expect to become certified during 1999 and recover 90% of the penalty for the year, resulting in a total net penalty of \$150,000.

What does it cost to operate the Child Support Enforcement program statewide? The regional offices and state office spent a combined \$7.6 million in federal fiscal year 1998. Our appropriation request for the state office in the upcoming biennium, as approved in the Governor's budget, is \$6.3 million of which \$106,981 would be general funds.

How many cases are handled? We have about 35,000 cases, each of which involves at least three people — a child, the mother, and the father. These are primarily in-state cases, but by working with other states and other countries, we also serve people across the United States and internationally.

What does the future hold? We expect change in the future. With the continued emphasis at the federal and state level for people to be more self-sufficient, and the TANF imposed 60-month time limit, all levels of government and society will need to collect the amounts due for the support of children. The change in the immediate future involves bringing all case information into FACSES so that it can be certified. The guidelines, which are in the process of amendment, need to be finalized once the Legislature completes its work. The enforcement tool chest will also be revisited to ensure we are using all the appropriate tools to collect what is due. We will continue to work with our customers to ensure that we are providing prompt, courteous and accurate services.

Prepared January 1999 for the North Dakota Department of Human Services. For information call (701) 328-3582.

House Bill 1029

January 13, 1999

1:00 pm

Ft Union Room

Chairman Price, members of the House Human Services Committee, my name is Daniel Biesheuvel, lobbyist for R-KIDS of North Dakota.

In the interim, R-KIDS fought hard to limit the income allowable for assessment of child support to the primary forty-hour a week job. In the past, all income sources were assessed child support. Many support payers ended up working two or three jobs just to make ends meet, only to have another child support assessment added to that income.

In one case, the father of a child was forced to give up all parental rights to that child so there would be enough income to care for his existing four children. Child support allowed for \$400+ for the one child, and only \$75 to raise his other four.

When I saw the 1999 ND Legislative Council Bill and Resolution Summaries, I was elated. It appeared R-KIDS had gotten the message across, and only income from the primary 40/hour week would be used. Much to my dismay, other wording on this bill doesn't assure this.

The inclusion of "is not detrimental to the child" is disheartening. It is always "beneficial to the child" for support from second or third jobs to be included. The courts, given this wording, will rarely or never exclude extra income in an obligation determination.

Prior to the finalized divorce, the soon-to-be noncustodial is immediately saddled with the extra expense of attorney fees, new living expenses, and in some show cause hearings an obligation to the future custodial parent. The likelihood of the noncustodial taking on overtime or a second job is imminent. When the case is finally heard, this extra income is immediately included in the obligation.

Once the noncustodial becomes established, gets his bill paid down, the likelihood of an obligation reduction is costly, and unlikely. Because the noncustodial is still obligated to pay a support based on extra work, he will likely continue work extra. The courts have trapped him in an inescapable scenario.

R-KIDS suggests the elimination of the "not detrimental to the child" wording, and limitation to the primary 40 hour work week, excluding second job income.

We must not allow the court system to view this bill if passed into law, as a way to squeeze even more out of a support payer. Remember the children in the existing relationship that will suffer from it.

Thank you, and I will attempt to answer any questions.

**TESTIMONY BEFORE THE
HOUSE HUMAN SERVICES COMMITTEE
REGARDING HOUSE BILL NO. 1029
January 13, 1999**

Chairman Price and members of the House Human Services Committee, my name is Blaine Nordwall, and I appear on behalf of the Department of Human Services.

First, the department's understanding of House Bill 1029 is that income from overtime and second jobs would usually and ordinarily be included in gross income. This income would then be considered in setting the child support amount.

In child support guidelines matters, there is a presumption that the amount determined under the guidelines is correct. If the court finds that the presumption is rebutted by evidence, the court may deviate from the guidelines amount.

House Bill No. 1029 makes deduction of income from overtime work or a second job available only if a showing is made of specific circumstances, including that the deduction is not detrimental to the child. These are determinations for the court to make. We, therefore, believe that the bill would establish a potential basis for the judge to deviate from the guidelines. Consequently, we see this bill as having a minimal fiscal impact on regional child support operations. We project only an additional \$46,183 in expenditures in the 1999-2001 biennium. All of that would be incurred at the county level as increased regional office expenditures.

The Child Support Guidelines are based on the principle that, insofar as possible, children are afforded the financial circumstances they would enjoy if they lived with both of their parents. Children who live with both of their parents enjoy financial benefits when a parent works overtime or works a second job. This bill is based on

the idea that an obligor who works extra time or an extra job may be entitled to keep those financial benefits from the children. We have some information to show why that approach is harmful to children.

The Child Support Guidelines in North Dakota are not unusually high. Since 1988, all states have been surveyed to identify the actual application of each state's guidelines on a set of scenarios. The 1997 survey is the most recent published. Attachment A reflects this survey. The five scenarios involve different income levels and are described on the first page of Attachment A as Cases A, B, C, D, and E. The remaining pages of Attachment A reflect the child support amounts in each state, ranked from highest to lowest.

In Case A, the lowest income level, 31 states set higher child support obligations. In Case B, 35 states set higher child support. In Case C, 40 states set higher child support. In Case D, 37 states set higher child support, And in Case E, with the highest monthly income, 12 states set higher child support.

We do not believe that most people working two jobs, or working overtime at hourly wages, are making over \$75,000 per year, as is the obligor in Case E. For families affected if this bill becomes law, desperately needed support could be lost.

Attachment B consists of two tables from the most recent annual publication by the United States Department of Agricultural on Expenditures on Children by Families. The tables provided by the USDA consider before-tax income and vary slightly with the age of the child. Please note that both USDA tables apply to North Dakota, one to urban areas and one to rural areas.

In order to compare USDA's before-tax income figures with the Child Support Guidelines, we have calculated net income for child support purposes, using an average annual expenditure per child, and the USDA's adjustments to account for

families of one, two, and three children. Attachment C reflects those calculations. For our comparisons, we have used the urban figures as those reflect slightly lower incomes and slightly lower per-child expenditures.

Attachment C demonstrates that at the lower of the three USDA income levels, the child support amount pays approximately half of the cost of meeting the child's needs. These are the income levels we believe most likely to be adversely affected if this bill becomes law. These are the children with the greatest needs.

In addition to the problem of adverse effect on poor children, the bill has major practical flaws.

House Bill No. 1029 allows a deduction for income from overtime or a second job. The overtime conditions are quite specific. However, with respect to "second job" income, the court's responsibility is not at all clear.

- There is no provision for distinguishing between primary and secondary jobs. If an individual has two jobs, one involving 25 hours of work per week and one involving 20, it is not clear whether a court could deduct income from the five hours in excess of 40 or for the entire "second job." Even if a court determined only to deduct five hours of work, if the jobs pay a different hourly amount, it is not clear which job is the second job.
- There is no requirement that the second job be compensable by the hour or fraction of an hour. Thus, if an individual has a second job that includes tips or commission as a part of the compensation package, it would not be possible to determine if the tips or commission were earned within a total of 40 hours of work or if those were earned outside the 40 hours.

- **Whether the additional compensation comes from overtime or a second job, someone must show that the obligor's employment or compensation structure has not been changed for the purpose of affecting a court order (in the case of overtime) or that the obligor's employment has not changed for the purpose of affecting a support order (in the case of a second job). It would typically be difficult and costly for the custodial parent to secure information concerning these aspects of the obligor's employment. House Bill 1029 does not address which party has the burden of showing that the obligor's employment or compensation structure hasn't changed for the purpose of affecting a court order.**

The department urges this committee recommend House Bill 1029 do not pass.

Presented by:

**Blaine L. Nordwall
Director, Legal Advisory Unit
ND Department of Human Services**

**INTERSTATE COMPARISONS OF CHILD SUPPORT ORDERS
USING STATE GUIDELINES**

**Maureen A. Pirog
Professor Public Policy Analysis
Co-Director, Inst. for Family and Social Responsibility
Indiana University
Bloomington, IN 47405**

**Marilyn Klotz
Research Associate
Inst. for Family and Social Responsibility
Indiana University
Bloomington, IN 47405**

and

**Katharine V. Byers, Assistant Professor
Co-Director, Inst. for Family and Social Responsibility
School of Social Work
Indiana University
Bloomington, IN 47405**

SCENARIOS

Mother and father are divorced. Father lives alone. Mother and the party's two children, ages 7 and 13, live together. Father pays union dues of \$30 per month and the health insurance for the two children at \$25 per month. Mother incurs monthly employment-related child care expenses of \$150. There are no extenuating factors to be added or considered for this unit. The gross combined monthly income for this family is as follows:

| | | | | | |
|----------------------------|---------------|--------------------|--------------|--------------------|--------------|
| Case A: Combined \$ | 830 | Father - \$ | 530 | Mother - \$ | 300 |
| Case B: Combined \$ | 1,200 | Father - \$ | 720 | Mother - \$ | 480 |
| Case C: Combined \$ | 2,500 | Father - \$ | 1,500 | Mother - \$ | 1,000 |
| Case D: Combined \$ | 4,400 | Father - \$ | 2,640 | Mother - \$ | 1,760 |
| Case E: Combined \$ | 10,500 | Father - \$ | 6,300 | Mother - \$ | 4,200 |

Case A - 1997

| Rank | State | Amount |
|------|--------------|--------|
| 1 | South Dakota | 275 |
| 2 | Rhode Island | 252 |
| 3 | Maryland | 249 |
| 4 | California | 236 |
| 5 | Alabama | 234 |
| 6 | Colorado | 231 |
| 7 | Virginia | 231 |
| 8 | Kentucky | 221 |
| 9 | Indiana | 215 |
| 10 | Georgia | 210 |
| 11 | Louisiana | 207 |
| 12 | Nevada | 200 |
| 13 | Kansas | 188 |
| 14 | New Mexico | 183 |
| 15 | Oklahoma | 171 |
| 16 | Tennessee | 153 |
| 17 | Ohio | 150 |
| 18 | Missouri | 149 |
| 19 | Florida | 135 |
| 20 | Wisconsin | 133 |
| 21 | Michigan | 128 |
| 22 | Idaho | 122 |
| 23 | New Jersey | 112 |
| 24 | Texas | 109 |
| 25 | Wyoming | 105 |
| 26 | Illinois | 102 |
| 27 | Hawaii | 100 |
| 28 | Mississippi | 92 |

Case A - 1997, cont.

| Rank | State | Amount |
|------|----------------------|--------|
| 29 | Delaware | 91 |
| 30 | Utah | 83 |
| 31 | Oregon | 73 |
| 32 | North Dakota | 68 |
| 33 | Minnesota | 62 |
| 34 | South Carolina | 58 |
| 35 | Maine | 52 |
| 36 | District of Columbia | 50 |
| 37 | Iowa | 50 |
| 38 | Nebraska | 50 |
| 39 | New Hampshire | 50 |
| 40 | North Carolina | 50 |
| 41 | Washington | 50 |
| 42 | West Virginia | 50 |
| 43 | Alaska | 38 |
| 44 | New York | 25 |
| 45 | Montana | 6 |
| 46 | Connecticut | 0 |
| | Arizona | CD |
| | Arkansas | CD |
| | Massachusetts | CD |
| | Pennsylvania | CD |
| | Vermont | CD |

CD= Court Discretion

| | |
|--------------------|-----|
| mean | 126 |
| median | 111 |
| standard deviation | 76 |

Case B - 1997

| Rank | State | Amount |
|------|----------------------|--------|
| 1 | Indiana | 327 |
| 2 | Rhode Island | 315 |
| 3 | Maryland | 295 |
| 4 | Kentucky | 293 |
| 5 | Louisiana | 292 |
| 6 | New Mexico | 291 |
| 7 | Maine | 290 |
| 8 | Virginia | 289 |
| 9 | Alabama | 280 |
| 10 | California | 278 |
| 11 | Ohio | 278 |
| 12 | South Dakota | 275 |
| 13 | New Jersey | 267 |
| 14 | Missouri | 265 |
| 15 | Colorado | 261 |
| 16 | Florida | 261 |
| 17 | Pennsylvania | 257 |
| 18 | Kansas | 227 |
| 19 | Georgia | 210 |
| 20 | District of Columbia | 208 |
| 21 | Tennessee | 200 |
| 22 | Wyoming | 200 |
| 23 | Iowa | 189 |
| 24 | South Carolina | 183 |
| 25 | Nevada | 180 |
| 26 | Wisconsin | 180 |
| 27 | Oklahoma | 171 |
| 28 | Idaho | 166 |

Case B - 1997, cont.

| Rank | State | Amount |
|------|----------------|--------|
| 29 | Oregon | 159 |
| 30 | Arkansas | 150 |
| 31 | Texas | 147 |
| 32 | Michigan | 141 |
| 33 | Massachusetts | 137 |
| 34 | Illinois | 136 |
| 35 | Utah | 131 |
| 36 | North Dakota | 126 |
| 37 | Mississippi | 124 |
| 38 | West Virginia | 117 |
| 39 | Hawaii | 100 |
| 40 | Delaware | 91 |
| 41 | Minnesota | 84 |
| 42 | Arizona | 75 |
| 43 | North Carolina | 57 |
| 44 | Nebraska | 50 |
| 45 | New Hampshire | 50 |
| 46 | New York | 50 |
| 47 | Washington | 50 |
| 48 | Alaska | 38 |
| 49 | Montana | 15 |
| 50 | Connecticut | 0 |
| | Vermont | CD |

CD= Court Discretion

| | |
|--------------------|-----|
| mean | 179 |
| median | 180 |
| standard deviation | 91 |

Case C - 1997

| Rank | State | Amount |
|------|----------------------|--------|
| 1 | Arizona | 782 |
| 2 | Indiana | 692 |
| 3 | Washington | 641 |
| 4 | South Dakota | 486 |
| 5 | Rhode Island | 480 |
| 6 | California | 478 |
| 7 | Massachusetts | 471 |
| 8 | Hawaii | 470 |
| 9 | Michigan | 468 |
| 10 | New Mexico | 468 |
| 11 | Delaware | 467 |
| 12 | Ohio | 465 |
| 13 | Florida | 463 |
| 14 | North Carolina | 463 |
| 15 | South Carolina | 463 |
| 16 | District of Columbia | 458 |
| 17 | New Jersey | 452 |
| 18 | Louisiana | 451 |
| 19 | Maryland | 449 |
| 20 | Missouri | 447 |
| 21 | Utah | 447 |
| 22 | Virginia | 446 |
| 23 | Kentucky | 445 |
| 24 | Maine | 437 |
| 25 | New York | 436 |
| 26 | Alabama | 433 |
| 27 | Vermont | 428 |
| 28 | New Hampshire | 424 |

Case C - 1997, cont.

| Rank | State | Amount |
|------|---------------|--------|
| 29 | Pennsylvania | 415 |
| 30 | Colorado | 409 |
| 31 | Connecticut | 404 |
| 32 | Tennessee | 393 |
| 33 | Kansas | 390 |
| 34 | Nebraska | 390 |
| 35 | Georgia | 383 |
| 36 | Minnesota | 376 |
| 37 | Nevada | 375 |
| 38 | Wisconsin | 375 |
| 39 | West Virginia | 364 |
| 40 | Iowa | 358 |
| 41 | North Dakota | 356 |
| 42 | Wyoming | 348 |
| 43 | Idaho | 345 |
| 44 | Oregon | 343 |
| 45 | Alaska | 312 |
| 46 | Arkansas | 305 |
| 47 | Texas | 298 |
| 48 | Oklahoma | 295 |
| 49 | Illinois | 294 |
| 50 | Montana | 261 |
| 51 | Mississippi | 251 |



| | |
|--------------------|-----|
| mean | 424 |
| median | 435 |
| standard deviation | 96 |

Case D - 1997

| Rank | State | Amount |
|------|----------------------|--------|
| 1 | Indiana | 899 |
| 2 | District of Columbia | 821 |
| 3 | Massachusetts | 789 |
| 4 | California | 770 |
| 5 | Florida | 721 |
| 6 | New Jersey | 710 |
| 7 | Connecticut | 703 |
| 8 | New York | 699 |
| 9 | Nebraska | 677 |
| 10 | Rhode Island | 677 |
| 11 | Georgia | 673 |
| 12 | Louisiana | 667 |
| 13 | New Hampshire | 667 |
| 14 | Tennessee | 665 |
| 15 | Nevada | 660 |
| 16 | Wisconsin | 660 |
| 17 | Michigan | 657 |
| 18 | Maryland | 655 |
| 19 | South Dakota | 652 |
| 20 | Vermont | 642 |
| 21 | Virginia | 641 |
| 22 | Washington | 641 |
| 23 | Kentucky | 637 |
| 24 | Alabama | 634 |
| 25 | Arizona | 628 |
| 26 | Delaware | 626 |
| 27 | Maine | 619 |
| 28 | Utah | 616 |

Case D - 1997, cont.

| Rank | State | Amount |
|------|----------------|--------|
| 29 | Colorado | 610 |
| 30 | Hawaii | 610 |
| 31 | Missouri | 609 |
| 32 | Ohio | 609 |
| 33 | Minnesota | 606 |
| 34 | North Carolina | 600 |
| 35 | New Mexico | 588 |
| 36 | Oregon | 587 |
| 37 | Kansas | 582 |
| 38 | North Dakota | 582 |
| 39 | South Carolina | 574 |
| 40 | Idaho | 566 |
| 41 | Iowa | 566 |
| 42 | Pennsylvania | 554 |
| 43 | Alaska | 546 |
| 44 | West Virginia | 539 |
| 45 | Wyoming | 519 |
| 46 | Texas | 517 |
| 47 | Illinois | 485 |
| 48 | Arkansas | 475 |
| 49 | Montana | 456 |
| 50 | Mississippi | 427 |
| 51 | Oklahoma | 415 |



| | |
|--------------------|-----|
| mean | 624 |
| median | 628 |
| standard deviation | 92 |

Case E - 1997

| Rank | State | Amount |
|------|----------------------|--------|
| 1 | West Virginia | 1742 |
| 2 | Georgia | 1607 |
| 3 | Nevada | 1575 |
| 4 | Wisconsin | 1575 |
| 5 | New York | 1548 |
| 6 | District of Columbia | 1495 |
| 7 | New Hampshire | 1473 |
| 8 | Indiana | 1462 |
| 9 | California | 1457 |
| 10 | Tennessee | 1422 |
| 11 | New Jersey | 1389 |
| 12 | Hawaii | 1260 |
| 13 | North Dakota | 1231 |
| 14 | Minnesota | 1228 |
| 15 | Connecticut | 1198 |
| 16 | Kansas | 1195 |
| 17 | Alaska | 1193 |
| 18 | Florida | 1186 |
| 19 | Rhode Island | 1170 |
| 20 | Delaware | 1157 |
| 21 | Texas | 1114 |
| 22 | New Mexico | 1095 |
| 23 | Michigan | 1078 |
| 24 | Colorado | 1066 |
| 25 | Arizona | 1061 |
| 26 | Maryland | 1060 |
| 27 | Washington | 1054 |
| 28 | Louisiana | 1052 |



Case E - 1997, cont.

| Rank | State | Amount |
|------|----------------|--------|
| 29 | Iowa | 1047 |
| 30 | Ohio | 1045 |
| 31 | Virginia | 1042 |
| 32 | Nebraska | 1035 |
| 33 | Missouri | 1032 |
| 34 | South Dakota | 1032 |
| 35 | Maine | 1031 |
| 36 | Oregon | 1027 |
| 37 | Arkansas | 1025 |
| 38 | Vermont | 1025 |
| 39 | Illinois | 1020 |
| 40 | Kentucky | 1017 |
| 41 | North Carolina | 1012 |
| 42 | South Carolina | 1000 |
| 43 | Idaho | 913 |
| 44 | Mississippi | 908 |
| 45 | Montana | 908 |
| 46 | Wyoming | 882 |
| 47 | Oklahoma | 801 |
| | Alabama | CD |
| | Massachusetts | CD |
| | Pennsylvania | CD |
| | Utah | CD |

CD= Court Discretion

| | |
|--------------------|------|
| mean | 1175 |
| median | 1078 |
| standard deviation | 220 |

Table 5. Estimated annual expenditures* on a child by husband-wife families, urban Midwest,† 1997

| Age of child | Total | Housing | Food | Transportation | Clothing | Health care | Child care and education | Miscellaneous‡ |
|---|-----------|----------|----------|----------------|----------|-------------|--------------------------|----------------|
| Before-tax income: Less than \$35,700 (Average=\$22,300) | | | | | | | | |
| 0-2 | \$5,270 | \$1,970 | \$760 | \$640 | \$350 | \$360 | \$670 | \$520 |
| 3-5 | 5,400 | 1,960 | 850 | 620 | 340 | 340 | 750 | 540 |
| 6-8 | 5,540 | 1,920 | 1,100 | 720 | 380 | 390 | 450 | 580 |
| 9-11 | 5,640 | 1,770 | 1,340 | 790 | 430 | 430 | 270 | 610 |
| 12-14 | 6,400 | 1,950 | 1,400 | 920 | 720 | 440 | 190 | 780 |
| 15-17 | 6,330 | 1,570 | 1,530 | 1,260 | 630 | 460 | 320 | 560 |
| Total | \$103,740 | \$33,420 | \$20,940 | \$14,850 | \$8,550 | \$7,260 | \$7,950 | \$10,770 |
| Before-tax income: \$35,700 to \$60,100 (Average=\$47,500) | | | | | | | | |
| 0-2 | \$7,540 | \$2,740 | \$920 | \$1,010 | \$420 | \$490 | \$1,110 | \$850 |
| 3-5 | 7,760 | 2,730 | 1,070 | 990 | 410 | 460 | 1,230 | 870 |
| 6-8 | 7,830 | 2,690 | 1,370 | 1,100 | 450 | 530 | 790 | 900 |
| 9-11 | 7,870 | 2,540 | 1,640 | 1,170 | 500 | 570 | 510 | 940 |
| 12-14 | 8,560 | 2,720 | 1,640 | 1,290 | 850 | 580 | 380 | 1,100 |
| 15-17 | 8,720 | 2,340 | 1,840 | 1,650 | 750 | 600 | 650 | 890 |
| Total | \$144,840 | \$47,280 | \$25,440 | \$21,630 | \$10,140 | \$9,690 | \$14,010 | \$16,650 |
| Before-tax income: More than \$60,100 (Average=\$89,900) | | | | | | | | |
| 0-2 | \$11,350 | \$4,410 | \$1,230 | \$1,460 | \$550 | \$570 | \$1,690 | \$1,440 |
| 3-5 | 11,620 | 4,390 | 1,400 | 1,440 | 540 | 550 | 1,840 | 1,460 |
| 6-8 | 11,550 | 4,350 | 1,690 | 1,540 | 590 | 620 | 1,260 | 1,500 |
| 9-11 | 11,500 | 4,200 | 1,980 | 1,610 | 640 | 660 | 870 | 1,540 |
| 12-14 | 12,330 | 4,390 | 2,070 | 1,740 | 1,070 | 680 | 680 | 1,700 |
| 15-17 | 12,650 | 4,010 | 2,190 | 2,110 | 970 | 700 | 1,190 | 1,480 |
| Total | \$213,000 | \$77,250 | \$31,680 | \$29,700 | \$13,080 | \$11,340 | \$22,590 | \$27,360 |

*Estimates are based on 1990-92 Consumer Expenditure Survey data updated to 1997 dollars using the regional Consumer Price Index. The figures represent estimated expenses on the younger child in a two-child family. Estimates are about the same for the older child, so to calculate expenses for two children, figures should be summed for the appropriate age categories. To estimate expenses for an only child, multiply the total expense for the appropriate age category by 1.24. To estimate expenses for each child in a family with three or more children, multiply the total expense for each appropriate age category by 0.77. For expenses on all children in a family, these totals should be summed.

†The Midwest region consists of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

‡Miscellaneous expenses include personal care items, entertainment, and reading materials.

Table 6. Estimated annual expenditures* on a child by husband-wife families, Rural areas,† 1997

| Age of child | Total | Housing | Food | Transportation | Clothing | Health care | Child care and education | Miscellaneous‡ |
|---|-----------|----------|----------|----------------|----------|-------------|--------------------------|----------------|
| Before-tax income: Less than \$35,900 (Average=\$22,400) | | | | | | | | |
| 0-2 | \$5,310 | \$1,660 | \$770 | \$830 | \$360 | \$440 | \$700 | \$550 |
| 3-5 | 5,460 | 1,650 | 870 | 810 | 350 | 420 | 790 | 570 |
| 6-8 | 5,600 | 1,610 | 1,130 | 920 | 390 | 480 | 470 | 600 |
| 9-11 | 5,690 | 1,450 | 1,370 | 990 | 440 | 520 | 280 | 640 |
| 12-14 | 6,460 | 1,640 | 1,430 | 1,110 | 750 | 530 | 200 | 800 |
| 15-17 | 6,410 | 1,260 | 1,560 | 1,460 | 660 | 550 | 330 | 590 |
| Total | \$104,790 | \$27,810 | \$21,390 | \$18,360 | \$8,850 | \$8,820 | \$8,310 | \$11,250 |
| Before-tax income: \$35,900 to \$60,400 (Average=\$47,800) | | | | | | | | |
| 0-2 | \$7,640 | \$2,450 | \$940 | \$1,210 | \$430 | \$580 | \$1,160 | \$870 |
| 3-5 | 7,850 | 2,430 | 1,090 | 1,180 | 420 | 550 | 1,290 | 890 |
| 6-8 | 7,900 | 2,390 | 1,390 | 1,290 | 460 | 630 | 820 | 920 |
| 9-11 | 7,950 | 2,240 | 1,660 | 1,360 | 520 | 670 | 540 | 960 |
| 12-14 | 8,630 | 2,420 | 1,660 | 1,480 | 870 | 680 | 400 | 1,120 |
| 15-17 | 8,820 | 2,040 | 1,860 | 1,840 | 780 | 710 | 680 | 910 |
| Total | \$146,370 | \$41,910 | \$25,800 | \$25,080 | \$10,440 | \$11,460 | \$14,670 | \$17,010 |
| Before-tax income: More than \$60,400 (Average=\$90,500) | | | | | | | | |
| 0-2 | \$11,470 | \$4,130 | \$1,240 | \$1,650 | \$560 | \$670 | \$1,760 | \$1,460 |
| 3-5 | 11,750 | 4,120 | 1,410 | 1,630 | 550 | 640 | 1,920 | 1,480 |
| 6-8 | 11,680 | 4,080 | 1,710 | 1,730 | 600 | 730 | 1,320 | 1,510 |
| 9-11 | 11,630 | 3,930 | 2,000 | 1,800 | 660 | 770 | 920 | 1,550 |
| 12-14 | 12,450 | 4,110 | 2,100 | 1,930 | 1,100 | 790 | 710 | 1,710 |
| 15-17 | 12,800 | 3,730 | 2,220 | 2,310 | 990 | 810 | 1,240 | 1,500 |
| Total | \$215,340 | \$72,300 | \$32,040 | \$33,150 | \$13,380 | \$13,230 | \$23,610 | \$27,630 |

Estimates are based on 1990-92 Consumer Expenditure Survey data updated to 1997 dollars using the population size Consumer Price Index. The figures represent estimated expenses on the younger child in a two-child family. Estimates are about the same for the older child, so to calculate expenses for two children, figures should be summed for the appropriate age categories. To estimate expenses for an only child, multiply the total expense for the appropriate age category by 1.24. To estimate expenses for each child in a family with three or more children, multiply the total expense for each appropriate age category by 0.77. For expenses on all children in a family, these totals should be summed.

†Rural areas are places of fewer than 2,500 people outside a Metropolitan Statistical Area.

‡Miscellaneous expenses include personal care items, entertainment, and reading materials.

| USDA Annual Income | Annual Net Income | Monthly Net Income |
|--------------------|-------------------|--------------------|
| \$22,300 | \$17,939 | \$1,495 |
| \$47,500 | \$34,519 | \$2,877 |
| \$89,900 | \$59,343 | \$4,945 |

| 1 Child | | |
|------------|--------------|---------|
| Guide-line | USDA Expend. | Percent |
| \$330 | \$596 | 55% |
| \$556 | \$831 | 67% |
| \$878 | \$1,223 | 72% |

| 2 Children | | |
|------------|--------------|---------|
| Guide-line | USDA Expend. | Percent |
| \$441 | \$961 | 46% |
| \$836 | \$1,341 | 62% |
| \$1,400 | \$1,972 | 71% |

| 3 Children | | |
|------------|--------------|---------|
| Guide-line | USDA Expend. | Percent |
| \$520 | \$1,109 | 47% |
| \$995 | \$1,549 | 64% |
| \$1,673 | \$2,278 | 73% |

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STATE BAR ASSOCIATION OF NORTH DAKOTA

TESTIMONY ON HB 1029

Sherry Mills Moore

Good Afternoon. I am Sherry Mills Moore, an attorney in private practice in Bismarck, and the Chair of the Family Law Task Force. We come to you neither to support nor oppose **HB1029**, but to offer our view of the impact of this piece of proposed legislation.

HB1029 also will impact upon the relative ease with which child support is established. Each one of the conditions stated -- not detrimental to the child, employed in excess of 40-hour week, overtime income is voluntary, and the structure hasn't been changed to affect a support order-- involves a factual determination which in turn means litigation. Is the employed in excess of a 40-hour week to mean ever? Does one week less than 40-hours in a month, in a year, in a child's lifetime, make it inapplicable? Perhaps most disputable will be whether the overtime is voluntary or not. If you are expected but not legally required to do your fair share of overtime does that make it voluntary? What if there is an unstated policy that if you do not pick up the overtime you will be terminated or at least be the first to be laid off, or not as likely to get a raise or promotion? Is that voluntary? The answers will come from the employers who will be subpoenaed into the hearings. If a child has been supported for all of its childhood by the earnings from a job that included overtime or several part-time jobs are they no longer available to that child? One of the most frequent questions about calculation of child support I hear from obligors whom I represent is that the support is based upon income that includes overtime. This tells me that this legislation will result in more disputes.

HB1029 will result in increased litigation, in increased costs to parents because they will need to each have private attorneys on this issue and it will involve more court time and stress on those resources and, finally, on employers. I have already waxed poetic on the virtue of simplicity and certainty and will not now repeat it but the same concerns apply. It is indeed uncomfortable for an obligor who seeks additional employment to pay debt or a better standard of living for him or herself, but the child support is still only a portion of that additional income. If I can answer any questions, please feel free to ask and if any arise in the future you may either contact Sandi Tabor or call me at my office at 222-4777.

Brief Prepared for Testimony for the 56th Legislature
Child Support Guidelines
Human Services Committee

Mark Hafner

My name is Mark Hafner and I am from Beulah ND where I have lived all my life. I am married to Denise and we have a 6 month old son, Josten. I work for the Coteau Properties Company and Denise works as a transcriptionist at Missouri Slope Clinic in Beulah

I was divorced from my first wife in 1991. Her name is Brenda and we have two daughters Kara now 13 and Deanna now 11. They moved to Tehachapi, CA shortly after our Divorce to live with her parents there. Brenda was originally from Hazen, ND and had lived in ND all her life but her parents had moved to CA shortly after we were married.

I will try to show in this brief, different parts of my divorce story and will tie them into different aspects of how legislation being looked at affects these situations.

HB 1346 Mandatory Mediation.

When we, meaning Brenda and myself first got divorced it was agreed that we did not want a big fight in court that would in turn hurt the kids and cause more problems between the two of us. Although we both had attorneys, almost all aspects of our divorce were agreed to between us. This aspect of our divorce went fine and seemed to be working fine until, and this is the problem with this idea, the spring of 1998 after she found out Denise was pregnant she decided she needed more money for Child Support and filed for such. I had assumed when our Divorce was settled and everything had been agreed to that this stipulation was binding and would be for the term of the children's eligibility. This was as I found out later not to be true. Child support as I found out can be changed later even though she knew what the guidelines required at the time of our Divorce and she admitted to knowing in court in October, under oath. My recommendation for this bill is that it would pass with the addition that this is a legal obligation by both parties and cannot be broken in a court of law or by the Child support Enforcement Unit at a later date for either persons purposes.

HB 1280 Child Support Income Shares Guidelines.

I recently went to Court for a raise in Child Support brought on by Brenda by the Child support Enforcement Unit. A few things should be mentioned here about incomes for the benefit of this bill. I work for the Coteau Properties Company and work a 40 hour week Guaranteed with a base salary of \$50386 a year. Denise works 30 hours a week at her job and will have a base salary of \$10875. As noted before we have a child from the two of us. In our case Denises salary is now figured into the basis of my support for my two Daughters. By the guidelines now in place I am paying Brenda \$991 a month in support for two children I see once a year. Brenda currently works a 40 hour a week job and is paid about \$7.50 an hour for a base pay of \$15600. Brenda is remarried and her husband works as a civilian aircraft mechanic at Edwards Airforce Base making over \$50000 a year. They are also still living with Brenda's parents who are both claiming disability and don't work. Add their incomes up and they make about \$65000 a year plus the \$12000 I send them a year. Living with Brendas parents, she only pays half the expense of the household and does not require any day care expenses. For the purpose of my case and all other cases I strongly believe that Shared Guidelines should be in place no matter how large the cost to the state, even though it would not be as large a cost as previously testified, because it is the right thing to do to fix a very unfair practice to the obligor of the children.

HB 1028 & 1029 Employee Benefits, Overtime and Second Job Exclusions.

Up until July of 1998 overtime at Coteau was very easy to come by for those that wanted to go outside their own departments to work it. Up to that point I was working overtime in my own department as well as picking up overtime in other departments. The day I am writing this is January 31, and from this day back to July 17, 1998 I have not worked any overtime, in any department. Although I am willing to work overtime it is not available anymore. Why is this important to know? When I went to Court in October I entered evidence that my income for 1998 would fall far short of what I made in 1997 and would even be less in 1999. The attorney for the Child Support Enforcement Unit turned my numbers around and added and subtracted and probably multiplied to come up with her own figures to suit their own needs. She came up with numbers showing that I would earn \$57853 in 1998 and 1999 and claimed that my figures were and I quote [Speculative and self serving to better my own interest] un-true. Recently I just received my W-2 for 1998. During court I testified under oath that I would make \$55000 in 1998. Guess what. My total wages for 1998 were \$54892.17. I also testified that in 1999 my wages because of the lack of overtime would continue to drop and with a possible raise in March of that year I would probably make \$52000, with again the same response from the Child Support Enforcement Unit. This figure will be what I will make this year and I will more than likely be back in court to have my case refigured in July. I leave this issue with these two thoughts, with my wage set at \$52000 which is a true and accurate figure I would not have to waste the courts time to reassess my support and the children would have been fine. And second who is being speculative and self serving to better their own interest. Please pass this bill on.

SB 2039 Child Support Guidelines and Extended Visits

My two children, Kara and Deanna live in CA with their mother, new dad and Grandma and Grandpa. I have visitation rights to see them for 6 weeks in the summer in 1999 and 2000 and 8 weeks from then on. I am required from the before mentioned agreement to pay all travel expenses to and from Ca to ND. These travel expense add up to more than \$1500 and are figured into my Child Support, but only amount to a deduction in support of \$15 a month. Being my children live in CA, when they step of that plane what they bring with them in their one small suitcase apiece is what they will have for the time they are with us. We can't just drive back to moms later and pick something up. We will have to by whatever they need to get by with, and in most cases their mother does this on purpose just so the girls will get new things. Also now that my girls are here we now have to pay daycare, which as noted she doesn't have to pay anyway, we now have to run all over to keep them entertained, feed them, etc. Which are all things she no longer has to do. I strongly urge the passage of this bill.

Required Benefits

As mentioned above I am required to pay almost \$1500 in travel expenses to get my girls back to CA. Although \$1200 of this is deducted in my Child Support it only comes of my net monthly income and gets me a \$15 break on my support. Spend \$1500 get a break of \$180. I am also required By my divorce to provide Life Insurance policies on both Kara and Deanna for \$25000 apiece that would also accrue interest and be made available to them when they go to college. I am also required to have \$100000 life insurance policy with the same effect that lists Kara and Deanna as beneficiaries. These three policies are required by divorce and cost me \$100 a month with no consideration on my Child Support. In reality then I am paying \$991 for support plus \$225 for travel expenses and insurance with a total of \$1216. Someone else whose children lived nearby and was not required to have Life Insurance policies which by the way is not a requirement would then only be paying \$991. This is a good bill and should definitely be passed

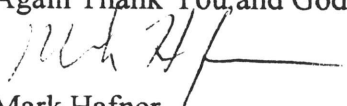
SB 2197 False allegation of Domestic Violence

As noted before I just finished going through courts on Child Support and myself going for more visitation. On the issue of more visitation the judge did rule in our favor for more visitation. My X- wife did not like this. After everything was completed and I thought over for now I received in the mail a copy of a letter sent to the judge from her attorney disagreeing with his finding for longer visitation and claiming Domestic Violence In our previous marriage and my current marriage. No mention of Domestic Violence was ever mentioned in our first divorce or in the courtroom while arguing case points for longer visitation. The reason being that it could never be proven by her because it didn't exist and was only made as a allegation in a desperate measure for a change that I could now not defend myself against. This Bill will not keep people that are involved in a domestic situation from reporting it but it will deter false accusations from being made or at least give the accused the protection that they need.

In closing I would like to say that I know these are only a few of the bills being looked at but I think they are all a good start to Make the Child Support System more fair than it is. It would eliminate most of the complaints, problems and injustices brought on by a system that is totally for the well being of the custodial parent with no rights at all to the non-custodial parent regardless of how good a parent they are. I also firmly believe that this system of Child Support Enforcement that is in place only affects those people who are as good of parents as they can be by continually going after these people for more and more things while those people who could care less about their kids, continue to not support their children and never see their children continue to be looked over, pampered to and basically don't have any thing happen to them. I also believe the Department of Human services and especially the Child Support Enforcement Units need to learn to be more fair and understanding in their methods and should not be speculative and self serving just to fit their needs.

I Thank You for taking the time to read this description of my case, how these bills affect me and how I feel about them and this system in North Dakota. I have tried to keep as much of my negativity about this system as it is now, out of this description and in no way mean to offend anyone if it did. I believe North Dakota is an excellent place to live and raise children and I know that you people are doing your best to make it a fair and equal place for all people to live.

Again Thank You, and God bless you and your work here,

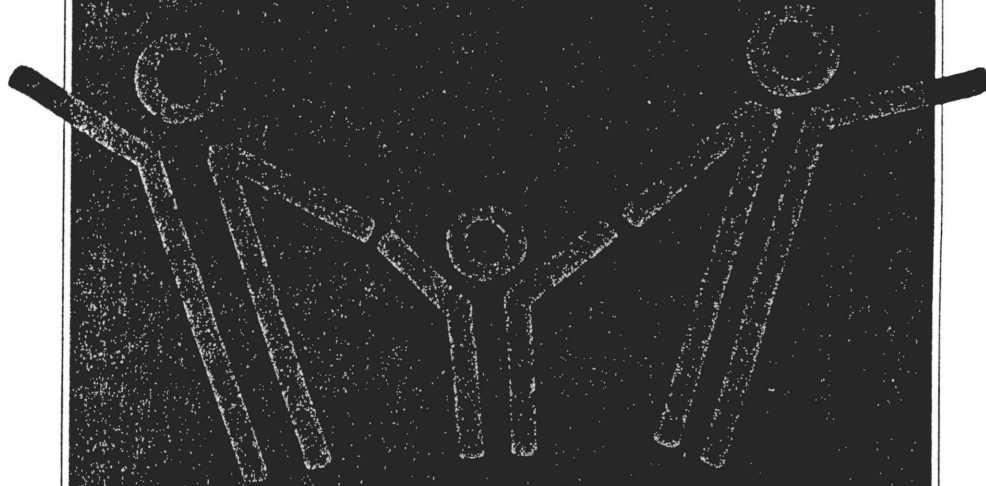

Mark Hafner
5840 4th St NW
Beulah ND 58523

OFFICE OF CHILD SUPPORT ENFORCEMENT

U.S. Department of Health and Human Services
Aerospace Building
370 L'Enfant Promenade, SW
Washington, D.C. 20447

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*Giving Hope and Support to
America's Children*



Handbook on Child Support Enforcement



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Administration for Children and Families
Office of Child Support Enforcement