

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1162

2005 HOUSE HUMAN SERVICES

HB 1162

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1162

House Human Services Committee

Conference Committee

Hearing Date January 11, 2005

Tape Number	Side A	Side B	Meter #
#1	X		0-3465

Committee Clerk Signature



Minutes:

Chairman Price: Opened hearing 12 members present.

Mr. James Fleming, Deputy Director, Attorney for the State Child Support Enforcement Program. This bill was pre filed by the Dept. and we ask for your favorable vote on it.

See Attached Testimony

Rep. Kreidt: Sec. 1, the \$250.00 "fine" will be assessed on an individual if they are engaged in an activity or hunting without a license. They have the court hearing, and don't make the payment and walk out of court, are there other penalties? What happens if it is not paid?

Mr. Fleming: I would expect that the court will require that payment at the time of the hearing.

As a condition of the sentence, it would be a violation and they would spend time in jail.

Rep. Porter: How is it split on distribution, if a person is under more than one order.

Mr. Fleming: When the \$250.00 is paid, it would be divided, once the current is paid, then it will be supplied solely to the arrears.

Rep. Kriedt: Can judges set the amount?

Mr. Fleming: Yes, if the obligor can pay more than \$250.00, I would hope that the judge access more.

Rep. Weisz: Wouldn't the payment go to the case that they are in court for, regardless how many orders that may be out there, they are in court for that one particular case that they are there for. Why wouldn't the money go for just that case?

Mr. Fleming: There is a payment plan for all arrearages, when in court, our suspensions not really based on one family, it is on the obligor. When money is collected, we determine, by law, how those moneys are distributed. The AG's office determined that the 4D rules be followed.

Rep. Kaldor: I have a question about the title of Section 1, "Restitution being required of certain offenders penalty".

Mr. Fleming: I was instructed to write it that way.

Rep. Porter: Move to section 2: There has always been some difficulty between the employer/employee, in being the collection agency for the state and now your adding an additional mandate back to employers. What do you think the mood of the employment community will be by putting this additional burden on the employer.

Mr. Fleming: I hope that when the employment community understands in their situation in what they have been dealing with, that they won't view it as a burden, in fact they will view it as a time saver.

Rep. Porter: In regards to Sec. 3, is it a little premature to do this when the previous part of the bill hasn't been implemented yet?

Mr. Fleming: I guess that would be for the committee to decide. We would be able to adjust the numbers very easily.

Rep. Devlin: I am concerned about the driver's license, what happens if the driver can't pay?

Mr. Fleming: In line 13, page 1, this does address the situation you are concerned about.

Rep. Kaldor: On the with holding , does the employer send directly to the state?

Mr. Fleming: The employer has a form, sends the form with payment directly to the CSEA. This provides the safety of less errors and also we are providing Internet payments.

Rep. Weisz: In Sec. 3, page 3, When you immediately taking away their license, are you giving them 10 days to comply with the order, but if you pull the license, and they don't know it is pulled because you haven't sent notice. They are in a sense driving illegally, they have 10 days to appeal, but they are still driving without a license.

Mr. Fleming: Yes, they may not know that their license is suspended, but they did sign the contract, but they know this might happen and they do know that their child support hasn't been paid. They always have the right to negotiate terms of payment.

Rep. Weisz: I still think it is a problem that this person will be driving under suspension.

Mr. Fleming: Refer to line 29, you can replace "upon notice" They know that their support hasn't been paid.

Rep. Porter: In that section, find DOT process in suspension. We would want to be consistent in the notification process.

Mr. Fleming: In regard to Child support, we send out the notices.

Rep. Porter: Not only am I driving with out a license, get a speeding ticket, and now have to pay the \$250.00 payment to CS Enf.

Mr. Fleming: We can change that to 3 days.

Chairman Price: Anyone in opposition.

Carol Two Eagles: I have been an employer at various times, and have a number of friends who travel for their employment. Because of this, they may not be able to be notified. I feel that the notification process is not fair. I wonder if the would be a way to withhold money to be able to create an account to help stop this problem. On page 5, I am wondering if it is constitutional, I would like you to give it some thought.

Chairman Price: There is a part of that already in state law.

Chairman Price: Is there anymore testimony or questions? If not, hearing is closed on HB 1162.

Comments: **Chairman Price** will appoint a sub-committee to research this.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1162

House Human Services Committee

Conference Committee

Hearing Date January 18, 2005

Tape Number	Side A	Side B	Meter #
#2		x	

Committee Clerk Signature



Minutes:

Chairman Price opened discussion.

Rep. Porter presented proposed amendment.

Rep. Porter move to accept.

Rep. Kaldor second.

Rep. Kaldor Is there any questions on the language change on line 4?

Rep. Weisz: Outside of changing the language, I still am concerned about the \$250.00 restitution.

Rep. Porter: I can't speak for the whole committee and whether they all agree, but \$250.00 is the maximum. Refusing to pay obligor, State of North Dakota, there is a penalty for actions, civil remedy if passed the way it is. The committee appreciates concern on Sec. 1 after the amendments.

Chairman Price: Motion to approve the amendments. Voice vote 12-0-0.

Page 2

House Human Services Committee

Bill/Resolution Number HB1162

Hearing Date January 18,2005

Rep. Weisz: Move to delete lines 8-15, page 1.

Rep. Nelson: second.

Rep. Porter: If the license is suspended, the only way this kicks in if they don't pay their child support. There are both criminal/civil side, they are convicted. There should be a civil penalty.

Rep. Weisz: then assess a civil penalty and make it payable to the child.

Mr. Fleming: This is not new debt, this is a payment as to what they owe (arrearages) and the restitution is paid to the family. I agree with Rep. Porter.

Rep. Nelson: Motion Do Pas as amended.

Rep. Porter: second.

Vote 11-1-0 Carrier: Rep. Porter.

FISCAL NOTE
 Requested by Legislative Council
 01/24/2005

Amendment to: HB 1162

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The bill requires restitution in the form of a child support payment of at least \$250 if an obligor is convicted of hunting without a license because the license was suspended for nonpayment of child support. The bill also provides for obligors to be able to increase the amount collected through an income withholding order to make additional payments towards arrears. The bill also allows for the suspension of a license, upon notice, if the obligor violates a previously negotiated payment plan.

The fiscal impact of this bill is estimated to be less than \$5,000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Brenda M. Weisa
 Phone Number: 328-2397

Agency: DHS
 Date Prepared: 01/25/2005

FISCAL NOTE
Requested by Legislative Council
01/03/2005

Bill/Resolution No.: HB 1162

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The bill requires restitution in the form of a child support payment of at least \$250 if an obligor is convicted of hunting without a license because the license was suspended for nonpayment of child support. The bill also provides for obligors to be able to increase the amount collected through an income withholding order to make additional payments towards arrears. The bill also lowers the trigger point for administrative license suspension from arrearages of 3 months or \$5,000 to arrearages of 2 months or \$2,000. The bill also allows for the immediate suspension of a license if the obligor violates a previously negotiated payment plan.

The fiscal impact of this bill is estimated to be less than \$5,000.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Brenda M. Weisz
Phone Number: 328-2397

Agency: DHS
Date Prepared: 01/07/2005

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1162

Page 1, line 12, replace "to the person to whom the child support is owed the sum" with
"in the amount"

Page 2, line 30, remove "or a political subdivision of the state"

Page 3, line 15, remove the overstrike over "~~three~~"

Page 3, line 16, remove "two"

Page 3, line 17, remove the overstrike over "~~five~~" and remove "two"

Page 3, line 29, after "time" insert "upon notice to the licensee"

Page 4, line 17, remove the overstrike over "~~three~~" and remove "two"

Page 4, line 18, remove the overstrike over "~~five~~" and remove "two"

Renumber accordingly

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Renumber accordingly

VK
1/19/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1162 HS 1/20/2005

Page 1, line 12, replace "to the person to whom the child support is owed the sum" with "in the amount"

House Amendments to House Bill No. 1162 HS 1/20/2005
Page 2, line 30, remove "or a political subdivision of the state"

House Amendments to House Bill No. 1162 HS 1/20/2005
Page 3, line 15, remove the overstrike over "~~three~~"

Page 3, line 16, remove "two"

Page 3, line 17, remove the overstrike over "~~five~~" and remove "two"

Page 3, line 28, replace "The" with "Upon notice to the licensee, the"

House Amendments to House Bill No. 1162 HS 1/20/2005
Page 4, line 17, remove the overstrike over "~~three~~" and remove "two"

Page 4, line 18, remove the overstrike over "~~five~~" and remove "two"

Renumber accordingly

Date: 1/18/05

Roll Call Vote #: *motion to accept*
1 - Rep Porter 2. Rep Kaldor
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB #1162

House

Human Services

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass as amended 11-1-0*

Motion Made By *Rep. Nelson*

Seconded By *Rep Porter*

Representatives	<i>Amnd</i>	Yes	No	Representatives	<i>Amnd</i>	Yes	No
Chairman C.S. Price	✓			Rep.L. Kaldor		✓	
V Chrm. G. Kreidt	✓			Rep.L. Potter		✓	
Rep. V. Pietsch	✓			Rep.S. Sandvig		✓	
Rep.J.O. Nelson	✓						
Rep.W.R. Devlin	✓						
Rep.T. Porter	✓						
Rep.G. Uglen	✓						
Rep C. Damschen	✓						
Rep.R. Weisz		✓	✓				

Total *11* ~~12~~ as printed: *0*
(11) No

Absent *0*

ABSENT *0*

Floor Assignment *Rep. Porter*

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

see attached:
~~Do Pass~~ *Accp*

REPORT OF STANDING COMMITTEE

HB 1162: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1162 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "to the person to whom the child support is owed the sum" with "in the amount"

Page 2, line 30, remove "or a political subdivision of the state"

Page 3, line 15, remove the overstrike over "~~three~~"

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Renumber accordingly

2005 SENATE HUMAN SERVICES

HB 1162

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1162**

Senate Human Services Committee

Conference Committee

Hearing Date February 15, 2005

Tape Number	Side A	Side B	Meter #
1	x		00-1620

Committee Clerk Signature



Minutes:

Chairman Lee opened the public hearing on HB 1162. All committee members were present.

This bill relates to restitution for nonpayment of child support.

Testimony in favor of the bill

James Fleming, Deputy Director and General Counsel of the State Child Support

Enforcement Division of the Department of Human Services. See written testimony

(Attachment 1)

Sen. Brown: Section 2: how does that fit with what we did earlier in the sense of the House? I forgot what's it called, but it automatically withdrew from the checking account.

Fleming: This will fit well with that. If the obligor who has this kind of arrears balance, is going to have to show a good payment history because the feds only let us do the exception to income withholding if they've got a good payment history. So they would have to show that they've been paying with us for six to 12 months depending on the situation. If they can show

that we're probably not pursue license suspension in the first place because you can look at the case and see that they're working with you. If they are able to take advantage of the autopay, then they're not doing income withholding at all and they can pay that full check. If they are under income withholding, this helps them as well because now the employer doesn't need to worry about two pieces of paper that are binding and the employee makes sure that its all taken out at one time.

Sen. Warner: Your notification process, is that done by registered letter or regular mail and assume they got it?

Fleming: It's a two step process. It is sent by first class mail, there's a separate statute that imposes an ongoing duty of each parent to keep up advises of their current address.

Sen. Warner: You have the ability to suspend professional licenses? If so, can you give me a number or percentage that deals with professional licenses?

Fleming: Correct to the first question. I'm hoping some day we can, but at this point we haven't begun to do that. Last session we talked about going after fun licenses first then the convenience of driving a vehicle and then go after their livelihood last. We've been working on the recreational and driver licenses, we haven't gone to the stage yet where we are looking at professional licenses, even to know how many of our obligors are there. Our hope is that for may of the licensed professionals, they may be independent contractors, or self-employed, and not under income withholding. And its easier to avoid your obligation when you don't have income withholding. So it's possible we'd pick up a few people that way that have not been paying it. But today I couldn't give you that information, but hopefully we will soon.

Sen. Dever: If the obligor can voluntarily increase the amount he pays, then can he also decrease it?

Fleming: Yes, that's correct. What we withhold above the statutory formula is with the consent of the obligor. If they reduce again down, their income withholding leads to a situation where they would not be in compliance of the payment plan and we would need to contact them and let them know that if they really want to do this, this is what's going to happen.

Sen. Dever: This is the 0200 version of the bill, I'm curious what the House did with it.

Fleming: The original submission in the House would have included any recreational licenses issued by a political subdivision of the state.

Mr. Fleming went on to explain the House amendments. Chairman Lee asked Mr. Fleming to give an example of obligors and obligees and how child support is collected when it becomes in arrears. He also talked about how game and fish licenses tie in. He also talked about the amount of money is owed in North Dakota.

Chairman Lee closed the public hearing on HB 1162

Senator Brown moved DO PASS, seconded by Senator Dever

VOTE: 4 yeas, 1 nay, 0 absent Carrier: Senator Brown

Date: 2-15-05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1162

Senate Human Services

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass*

Motion Made By *Sen Brown* Seconded By *Sen Dever*

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner		✓
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) *4* No *1*

Absent *0*

Floor Assignment *Sen Brown*

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

REPORT OF STANDING COMMITTEE (410)
February 15, 2005 1:03 p.m.

Module No: SR-30-2969
Carrier: Brown
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1162, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends **DO PASS** (4 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed
HB 1162 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1162

TESTIMONY
HOUSE Bill 1162 - DEPARTMENT OF HUMAN SERVICES
HOUSE HUMAN SERVICES COMMITTEE
CLARA SUE PRICE, CHAIRMAN
JANUARY 11, 2005

Chairman Price, members of the House Human Services Committee, I am James Fleming, Deputy Director and General Counsel of the State Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of House Bill 1162.

We are succeeding in our effort to program our computer system within our appropriation for the 2005-07 biennium to implement the license suspension law that was enacted last legislative session. The pilot project and other initial efforts we have made in the last biennium have proven that license suspension is a meaningful incentive for many obligors to regularly pay their current child support obligation and work towards payment of the outstanding arrearage. Due to the possibility of license suspension (or at times, the actual suspension), more obligors are making payments and their arrears balances are being paid off at a faster rate. When the programming project is complete, we will be able to implement license suspension on a broader scale and further improve collections.

Our efforts in the last two years have also taught us some lessons in how to improve the law and make it more effective.

Section One

Hunting, driving, or engaging in certain occupations without a current license is a crime. When a license has been suspended or withheld because the obligor has failed to pay child support, the family is the victim of this crime. When a child support obligor is convicted of engaging in activity that is prohibited without a license, we suggest it is appropriate to compensate the family as the victim of the crime with restitution of two hundred and fifty dollars or a higher amount set by

the court. This is not a "new" debt owed by the obligor; the amount paid will be credited to the obligor's existing arrears balance.

Section Two

One of the goals of license suspension has been to increase the monthly payments on arrears beyond what is received through income withholding. Generally, income withholding is issued for the current monthly child support obligation plus an additional twenty percent to reduce the outstanding arrearage. However, in most payment plans, the obligor has agreed to make a larger payment each month on arrears. It is simplest for both the obligor and the employer to change the income withholding order to withhold this additional amount. Otherwise, the obligor needs to supplement the employer's payment with his or her own payment or send a separate withholding authorization to the employer. Section two of the bill would allow obligors to choose to increase the amount due under an income withholding order to include the additional arrears payment that is due under a payment plan. This will help obligors comply with their payment plans and reduce the paperwork burden on employers by avoiding the additional withholding authorization.

Section Three

This section of the bill makes a number of improvements to the current administrative license suspension law.

- We will be able to suspend all recreational licenses, and not just those issued by lottery or tag. This will not stop obligors from illegally obtaining a paper license, but as licenses become more available over the Internet, this will allow us to work with the Game and Fish Department and other licensing authorities to withhold those licenses as well.
- The amount of arrears that must be owed before we can pursue administrative license suspension would be reduced from three months or

\$5,000, whichever is less, to two months or \$2,000. This is actually in the obligor's long-term interests, as we can see that once an obligor gets more than \$2,500 behind, it gets progressively harder for the obligor to pay the arrearage and the accrued interest or to afford a payment plan.

- A suspension would take effect immediately upon notice to the obligor if a prior payment plan is violated.
- In a protest hearing, a court would be asked to review our action rather than order the suspension itself. This is significant because for older cases in which the statute of limitations has run, a court cannot order the suspension if the obligor raises the issue at the hearing. In a similar context, the North Dakota Supreme Court held that our program could continue intercepting an income tax refund that was payable to the obligor because it was an administrative enforcement action rather than a judicial action that was barred by the statute of limitations.

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

**TESTIMONY
HOUSE Bill 1162 - DEPARTMENT OF HUMAN SERVICES
SENATE HUMAN SERVICES COMMITTEE
JUDY LEE, CHAIRMAN
FEBRUARY 15, 2005**

Chairman Lee, members of the Senate Human Services Committee, I am James Fleming, Deputy Director and General Counsel of the State Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Engrossed House Bill 1162.

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- In a protest hearing, a court would be asked to review our action rather than order the suspension itself. This is significant because for older cases in which the statute of limitations has run, a court cannot order the suspension if the obligor raises the issue at the hearing. In a similar context, the North Dakota Supreme Court held that our program could continue intercepting an income tax refund that was payable to the obligor because it was an administrative enforcement action rather than a judicial action that was barred by the statute of limitations.

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