

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

3004

2007 HOUSE HUMAN SERVICES

HCR 3004

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3004

House Human Services Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 880 and 881

Committee Clerk Signature

Judith Debock

Minutes:

Chairman Price: We will open the hearing on HCR 3004.

Representative Gulleson: District 26: I gave you a hand out on the century code listing all of the areas in our current statues. One out of every 2 marriages dissolves. It impacts Social Services programs and court systems. Many feel the system has failed them. We do know that on a regular bases we need to review what we do have in place to address these types of concerns. This study is coming to you today so we can look at where we are at with child custody, visitation, and child support, especially in the areas of fairness. These are emotional and personal issues. We need to look at the best interest of the child. Recommendations are to look at shared income, fairness, mediation, possible parenting plan, Child support is necessary. See my attachment on plastic payments.

Senator Connie Triplett, District 18 from Grand Forks, ND Senate: Should never connect visitation with dollars. They are separate but integrated.

Representative Lois Delmore, District 43 from Grand Forks: They are all very interrelated, and we need to look at all issues. It has become a gender issue.

Susan Bieler, a Mandan resident: I am a mother of 5 children. My husband and I, both have been married for the second time with children, and often have felt the system has failed us.

See Attached.

Representative Louise Potter: I am a sponsor of this bill. I want to let you know I am in favor of this bill.

Mike Schwindt, Director of Child Support Enforcement Division of the Department of Human Services: See attached testimony. We interfere with people's lives.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3004

House Human Services Committee

Check here for Conference Committee

Hearing Date: February 12, 2007

Recorder Job Number: 3395

Committee Clerk Signature

Judith Boho ck

Minutes:

Chairman Price: Let's take out HCR 3004 to discuss and possibly take action on it.

Representative Conrad: I really think that we should include child support with the visitation.

Let's just study it all together.

Representative Weisz: We don't want to combine because they really are two separate issues. Child support in a sense has nothing to do with custody or visitation. These are all separate issues.

Representative Potter: Going on this bill in discussion that we had, we thought it was the best thing to get all the different issues on the table instead of all these little studies, and see how it all relates together in law, what is there, and look at the different parts of it. We know there are issues in all of these different areas.

Chairman Price: I don't want them to think the money and the visitation should have any relationship to each other. Look at income shares again.

Representative Kaldor: I would assume this (could not understand him).

Representative Porter moves a do pass on the consent calendar, seconded by

Representative Kaldor. The vote was 12 yeas 0 nays and 0 absent. **Representative Potter** will carry bill to the floor.

Date: 7/12
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES HCR 3004 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No pass Consent Calendar

Motion Made By Rep. Porter Seconded By Rep. Kaldor

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglen					
Robin Weisz					

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. Porter

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

REPORT OF STANDING COMMITTEE

HCR 3004: Human Services Committee (Rep. Price, Chairman) recommends DO PASS and BE PLACED ON THE CONSENT CALENDAR (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3004 was placed on the Tenth order on the calendar.

2007 SENATE HUMAN SERVICES

HCR 3004

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3004

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 3-19-07

Recorder Job Number: 5259

Committee Clerk Signature *Mary K Monson*

Minutes:

Chairman Senator J. Lee opened the hearing on HCR 3004 to study issues relating to child custody, visitation, and child support in this state.

Representative Pam Guleson (District #26) introduced HCR 3004. This study resolution will ask the interim committee to really look at all of the issues surrounding child custody, visitation, and child support. There are a number of areas they really want to look at. She thought Measure 3 this fall brought the issues faced as a state to the front on what has happened with our system. She particularly gets a lot of calls surrounding this issue. She has the Bobcat plant in her district. It's a difficulty with a lot of their employees with mandatory overtime they face and how that fits in with their ability to have visitation and such. It becomes very complex and it is a difficult issue.

One of the problems she said is that the North Dakota system is set up on an adversarial system. It basically pits each parent against itself once a divorce petition is filed.

She said they would really like to take a strong look at Minnesota's system which is just going online after a bunch of revisions and look at a system that is much more based on mediation.

There is a need to get away from the court based system that provides culture conflict and competition and get to a system that really provides and builds a plan surrounding the child.

Recommendations from a group they talked to included placing both parent's income on the table, developing a parenting plan required by the state that is in the best interest of those children, and eased access to the justice system.

There were also recommendations on how the payments are paid and strongly looking at using debit cards. Rep. Guleson referred to attachment #1 which speaks to the fact that about 30 states are using the debit cards (meter 05:30).

Written testimony in support of HCR 3004 from Bill Neumann (State Bar Association of ND) was presented for the record. See attachment #2.

There was discussion on how a committee could be structured with examples given of different committees or task forces and their makeup.

Senator Dever recalled that several years ago an initiative was started to have divorce situations through mediation instead of adversarial. He asked if she was familiar with other efforts towards that and how they work.

Rep. Guleson said that our chief justice talked about the pilot project that they want to move forward with and she thought it did have a mediation type of court.

Senator Dever also asked if our body of law is standing in the way of that.

Rep. Guleson said that was an excellent question. She assumed that once they look at how the law would support that type of system, including domestic relations type of court, maybe they would learn more about what could potentially be the barriers in our policy.

Senator Warner said that this deals strictly with child custody and visitation and support. What happens if we expand this to discuss divorce?

Rep. Guleson said the concern even from the bar association in their resolution that moved through the Judiciary did not include child support at first because they felt even broadening it to talk about that side of it makes it too broad (meter 12:35).

There was no opposing or neutral testimony.

The hearing on HCR 3004 was closed.

A review of the testimony from Mr. Neumann followed. He distinguishes between the two House Concurrent Resolutions 3008 (attachment #3) and 3004.

Senator J. Lee also reported that, on the child support the change to move it into the state instead of the counties, the House Human Services Committee added an amendment which would call for consideration of a sort of modified income share (meter 14:40).

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3004

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 3-20-07

Recorder Job Number: 5336

Committee Clerk Signature

Mary K Monson

Minutes:

Chairman Senator J. Lee opened HCR 3004 for discussion.

She referred to HCR 3008 and reported that it had already passed both the House and the Senate and the only thing that wasn't included in it was the child support.

She also said that both the Bar Association and the Supreme Court supported HCR 3008.

(Meter 2:00) Senator J. Lee explained that the subjects on 3008 were custody and visitation.

The subjects on 3004 were custody, visitation, and child support. She stated that she was not comfortable with the child support inclusion.

Senator Warner asked what the task force was that worked on child support.

Senator J. Lee said there was a task force that had been active for a long time (meter 02:40) on developing the rules which then go to the administrative rules committee.

Senator Dever moved a Do Not Pass on HCR 3004.

The motion was seconded by Senator Erbele.

Roll call vote 3-3-0. Motion failed.

Senator Warner moved a Do Pass on HCR 3004.

The motion was seconded by Senator Heckaman.

Roll call vote 3-3-0. Motion failed.

Senator Warner made a motion to move HCR 3004 forward without committee recommendation.

Senator Heckaman seconded the motion.

Roll call vote 6-0-0. Motion carried. Carrier is Senator Heckaman.

Date: 3-20-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HCR 3004

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DNP

Motion Made By Sen. Dever Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman		✓
Senator Robert Erbele, V. Chair <u>2</u>	✓		Senator Jim Pomeroy		✓
Senator Dick Dever <u>1</u>	✓		Senator John M. Warner		✓

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

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

Date: 3-20-07

Roll Call Vote #: 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HCR 3004

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By Sen. Warner Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman		✓	Senator Joan Heckaman 2	✓	
Senator Robert Erbele, V. Chair		✓	Senator Jim Pomeroy	✓	
Senator Dick Dever		✓	Senator John M. Warner 1	✓	

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

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

Date: 3-20-07

Roll Call Vote #: 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. HCR 3004

Senate HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken W/O recommendation

Motion Made By Sen. Warner Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman 5	✓	
Senator Robert Erbele, V. Chair	✓		Senator Jim Pomeroy	✓	
Senator Dick Dever	✓		Senator John M. Warner 1	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Heckaman

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

REPORT OF STANDING COMMITTEE (410)
March 20, 2007 10:20 a.m.

Module No: SR-52-5724
Carrier: Heckaman
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3004: Human Services Committee (Sen. J. Lee, Chairman) recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3004 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

HCR 3004

The North Dakota Century Code chapter on all of these issues is NDCC Chapter 14-09. Here is a list of the sections contained in that chapter. I've highlighted the ones that apply to custody, visitation, and child support.

- 14-09-01 Legitimacy of children born in wedlock. [Repealed.]
- 14-09-02 Children born after dissolution of marriage or before wedlock — Legitimacy.
[Repealed.]
- 14-09-03 Who may dispute presumption of legitimacy. [Repealed.]
- 14-09-04 Custody of legitimate child.
- 14-09-05 Custody of illegitimate child.
- 14-09-05.1 Grandparental rights of visitation to unmarried minors — Mediation or arbitration.
- 14-09-06 Priority of custody of father and mother.
- 14-09-06.1 Awarding custody — Best interests and welfare of child.**
- 14-09-06.2 Best interests and welfare of child — Court consideration — Factors.**
- 14-09-06.3 Custody investigations and reports — Costs.**
- 14-09-06.4 Appointment of guardian ad litem or child custody investigator for children in custody, support, and visitation proceedings — Immunity.**
- 14-09-06.5 Allegation of harm to child — Effect.
- 14-09-06.6 Limitations on postjudgment custody modifications.**
- 14-09-07 Residence of child.
- 14-09-08 Mutual duty to support children.**
- 14-09-08.1 Support payments — Payment to state disbursement unit — Transfer of proceedings for enforcement of decree — Procedures upon failure to pay.**
- 14-09-08.2 Support for children after majority — Retroactive application.**
- 14-09-08.3 Duration of child support obligations.**
- 14-09-08.4 Periodic review of child support orders.**
- 14-09-08.5 Notice of periodic review of child support orders.**
- 14-09-08.6 Obligor's duties upon review — Failure to provide information.**
- 14-09-08.7 Notice of review determination.**
- 14-09-08.8 Motion for amendment of child support order — How made — Presumption where obligor's income unknown.**
- 14-09-08.9 Request for review — Notice of right to request review.**
- 14-09-08.10 Order.**
- 14-09-08.11 Eligible child — Employer to permit enrollment — Employer duties and liabilities — Obligor contest.**
- 14-09-08.12 Authorization to insurer.**
- 14-09-08.13 Application for service.**
- 14-09-08.14 Public authority to establish criteria.**
- 14-09-08.15 Reasonable cost of health insurance.**
- 14-09-08.16 Requests for information from income payer.**
- 14-09-08.17 Delinquent obligor may not renounce claims.**
- 14-09-08.18 Health insurance reimbursements received by but not owed to obligor to be paid over — Finding of contempt — Treatment as delinquent child support.**
- 14-09-08.19 Child support order — Required interest statement.**
- 14-09-08.20 National medical support notice — Public authority duties.**
- 14-09-08.21 Termination of parental rights — Duty of support.**
- 14-09-09 Liability of stepparent for support.**
- 14-09-09.1 Child support — Wage assignment — Procedures. [Repealed.]
- 14-09-09.2 Child support — Alternative procedure to withhold and transmit earnings.
[Repealed.]
- 14-09-09.3 Child support — Duties and liabilities of income payer under income withholding order.**
- 14-09-09.4 Child support — Order for wage assignment or to withhold and transmit earnings — Dissolution, revocation or modification. [Repealed.]
- 14-09-09.5 Child support — Judgment or order as lien on property — Duration — Effect.
[Repealed.]
- 14-09-09.6 Voluntary income withholding for support — Limitations.**
- 14-09-09.7 Child support guidelines.**

- 14-09-09.8 Out-of-state wage withholding orders — Filing requirements. [Repealed.]
- 14-09-09.9 Effect of filing out-of-state wage withholding order. [Repealed.]
- 14-09-09.10 **Definitions.**
- 14-09-09.11 **Income withholding order.**
- 14-09-09.12 **Provision of notice of impact of income withholding law to obligors.**
- 14-09-09.13 **Procedure — Notice to obligor.**
- 14-09-09.14 **Hearing upon obligor's request.**
- 14-09-09.15 **Form — Effect of income withholding order.**
- 14-09-09.16 **Service of income withholding order on income payer.**
- 14-09-09.17 **Amendment — Termination of income withholding order.**
- 14-09-09.18 **Interstate income withholding — Initiation by this state to other state.**
- 14-09-09.19 Interstate income withholding — Duties of the public authority upon receipt of request from another state. [Repealed.]
- 14-09-09.20 Interstate income withholding — Notice to obligor. [Repealed.]
- 14-09-09.21 Interstate income withholding — Hearing upon request of obligor. [Repealed.]
- 14-09-09.22 Interstate income withholding — Form — Service on income payor — Termination of order. [Repealed.]
- 14-09-09.23 Administration of income withholding. [Repealed.]
- 14-09-09.24 **Immediate income withholding.**
- 14-09-09.25 **Requests by obligee for income withholding — Approval — Procedures and standards.**
- 14-09-09.26 **State is real party in interest.**
- 14-09-09.27 **Attorney represents people's interest in the enforcement of child support obligations.**
- 14-09-09.28 **Application to existing cases.**
- 14-09-09.29 **Coordination of income withholding activities.**
- 14-09-09.30 **Monthly amount due.**
- 14-09-09.31 **Child support exempt from process.**
- 14-09-09.32 **Agreements to waive child support.**
- 14-09-09.33 **Judicial offset of child support.**
- 14-09-09.34 **Lump sum payments.**
- 14-09-09.35 **Transfers of funds for payment of child support.**
- 14-09-10 **Reciprocal duty of support — Support of poor.**
- 14-09-11 **Allowance to parent for support of child.**
- 14-09-12 Support by county — Liability of parent's estate.
- 14-09-13 Neglect of child — Parent liable to third person.
- 14-09-14 When parent not liable for support of child. [Repealed.]
- 14-09-15 Support of children after majority.
- 14-09-16 Control of property of child.
- 14-09-17 Child's earnings — Relinquished by parent.
- 14-09-18 Wages of minors.
- 14-09-19 Parental abuse.
- 14-09-20 When parent's authority ceases.
- 14-09-21 Parent and child not liable for acts of other.
- 14-09-22 Abuse or neglect of child — Penalty.
- 14-09-23 Full faith and credit for paternity determinations.
- 14-09-24 Interference with visitation — Attorney's fees — Enforcement remedies and tools.
- 14-09-25 State disbursement unit — Duties — Continuing appropriation.
- 14-09-26 **Modification of existing child support orders.**
- State disbursement unit fund — Continuing appropriation — Correction of errors — Repealed.**
- 14-09-28 **Parental custody and visitation rights and duties.**

House Concurrent Resolution 3004
January 10, 2007
House Human Services Committee

Chairman Price and members of the House Human Services Committee:

My name is Connie Triplett. I represent District 18 from Grand Forks in the North Dakota Senate. I am one of the co-sponsors of HCR 3004 and I urge your support of the resolution.

My interest in this issue comes from my work. I have practiced law for more than 25 years and have always handled family law cases as a significant part of my practice. The frustrations that were expressed by the proponents of Measure 3 are shared by many people. Even though the initiated measure did not pass, I believe that there was enough support for it that we as legislators have an obligation to listen to those concerns and respond in a way that is fair to all parties to these difficult cases.

By requesting a study resolution, we are saying that we do not want to rush to judgment, but that we want to give all interested parties the opportunity to come to the table to offer solutions. This resolution requests the Legislative Council to study issues relating to child custody, visitation and child support. You may know that there is another study resolution that has been filed, HCR 3008, which requests a study of only custody and visitation issues. That resolution has been assigned to the Judiciary Committee for consideration.

I do not have a strong preference as to which resolution ends up being passed and studied, but I do think it is imperative that one of them be moved forward and I do not see any harm in passing both resolutions and letting the Legislative Council choose between them. In support of this resolution specifically, I will say that I think it is very difficult to discuss child custody and visitation without discussing the issue of child support. These three issues are intimately interconnected.

Very often, even in cases where parties start out agreeing where the children should live, one or both may change their mind as they come to understand the implications of the laws and rules regarding child support and the limitations which our current laws have placed on district court judges in the area of child support.

Since this is only a request for a study resolution, it is not my intent today to discuss the substance of these issues but only to reiterate the importance of supporting an informed and thoughtful study of the challenges facing parents, children, attorneys, judges, and others who work with divorced, never-married and blended families.

Thank you for your consideration.

Testimony on HCR 3004

Good Morning Chair Representative Price and members of the Human Service Committee

My name is Susan Beehler a Mandan resident a mother of 5 children ages 14 to 26, a custodial parent (he is now 24 but I am still receiving child support for) and I am married to a non-custodial parent. I stood before some of you during the 55th legislature and more than likely gave testimony on support of HCR 3031, at that time I was a lobbyist for RKIDS Remembering Kids In Divorce Settlements. When you talk "kid" years, 10 years is a long time. Adult years it seems not much changes as fast for instance, 10 years later and the same issues are here before you today in the form of HCR3004. For our family some of the changes RKIDS proposed would have made my life, my children's life easier. Now 10 years later the changes you make in the issues of child custody or child support really won't affect me much, my life as a custodial parent is coming to a close and the parents in RKIDS most of their children are grown. I come today to ask you to not just study these issues but make changes that will benefit the children that are in these situations, they just want their mommy and daddy. It seems our state has stood still compared to the changes that have taken place in other states. I have no probably picking up the Century Code and going back over the statues dealing with family law the law is about the same. I don't see that as a very good thing I urge you not only to readdress these issues but there are a few days left to submit some bills , go out on a limb and take a proactive approach, the problems have not gone away and 10 years is a long time in kid years. Each year you delay progressing is a year in a child's life and those years you can't make up, it is lost. Children need both parents, our society needs families. For me this study seems so futile, it is something, but the children affected by the laws you could make, really deserve more effort than a study.

Susan Beehler
702 14th ST NW
Mandan ND 58554
220-2297
suzyqbeelc@bis.midco.net

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

**HOUSE CONCURRENT RESOLUTION NO. 3031
(Representatives Droydal, Delmore, Kempenich)
(Senators Krauter, Urlacher)**

A concurrent resolution directing the Legislative Council to study the issues of fairness and equity as they relate to child support guidelines and the issuance and enforcement of child custody and visitation orders.

WHEREAS, approximately 70 percent of the caseload of North Dakota courts involves issues related to family law, including divorce, custody, visitation, and child support as well as modifications to custody, visitation, and child support orders; and

WHEREAS, every child has a right to be guided, nurtured, and supported emotionally, physically, and financially by both parents regardless of the parents' marital status; and

WHEREAS, North Dakota law provides that for the purposes of determining custody, there is no presumption as to which parent will better promote the best interests of the child; and

WHEREAS, North Dakota law provides that each parent has a mutual duty to support a child of the parents; and

WHEREAS, concerns have been expressed that there are inequities in the enforcement of child custody and visitation orders and in the child support guidelines as they relate to persons who are obligors;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study the issues of fairness and equity as they relate to child support guidelines and the issuance and enforcement of child custody and visitation orders; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 28, 1997

Testimony
House Concurrent Res. 3004 – Department Of Human Services
House Human Services Committee
Clara Sue Price, Chairman
January 10, 2007

Chairman Price, members of the House Human Services Committee, I am Mike Schwindt, Director of the Child Support Enforcement Division of the Department of Human Services. I am here to testify on House Concurrent Resolution 3004.

The Department does not oppose House Concurrent Resolution 3004. We support the sustained collection of affordable child support, because of the benefit to kids and taxpayers. You cannot collect what the obligor cannot afford to pay. It is also much easier to collect support from an obligor who has a healthy relationship with his or her children and is willing to pay support for the children. Thus, we, quite often with prior legislative concurrence, have recently made several significant changes to promote fairness and flexibility regarding child support enforcement, including:

- Allowing obligors to pay support on their own through the State Disbursement Unit rather than through an income withholding order issued to their employer;
- Writing off assigned arrears for obligors who are unable to pay;
- Suppressing and forgiving interest on arrears as an incentive or reward to pay support in full and on time;
- Amending the child support guidelines to better balance the resource allocation between parents when an obligor owes support to multiple

families, or when an obligor is awarded extended visitation with the child;

- Negotiating payment plans where an obligor can avoid license suspensions and other enforcement activities in exchange for making sustained payments of current support and arrears, even if the obligor is not able to pay the full arrears balance;
- Reviewing child support obligations more frequently than the federally required minimum three year review cycle in some situations where the obligor has an indefinite loss of income and can no longer pay the current support obligation; and
- Intervening early in a case when an obligor owes two months of support or \$2,000, before the obligor gets too far behind to catch up.

If the resolution is passed and selected for study, it will very likely include a discussion of the income shares model for child support guidelines.

Any discussion of the child support guidelines should include some of the refinements that have been made in our existing guidelines to address obligors' concerns, such as deductions for multiple families and extended visitation. This trend of "pro-obligor" changes is continued in the pending proposed amendments to the child support guidelines, which will significantly reduce the number of cases in which income is imputed to an obligor based on earning capacity rather than determining a child support amount based on the obligor's actual income.

Nevertheless, we hear the same complaints you do. We struggle with the impression many obligors still have today that the goal of the child support enforcement program is simply to collect the maximum amount of child support possible. It is a reputation that is hard to shake. Many

people, including legislators, are not aware that an obligor can apply for our services, request review and adjustment services, and if the obligor's income warrants a reduction, we will file the necessary court documents to make that change.

In conclusion we support and welcome legislative attention on ways the family law system, including child support enforcement, can be more fair and responsive to everyone.

I would be happy to answer questions.

Plastic Payments

Some States Move to Debit Cards for Child Support

States are discovering that using prepaid debit cards is more convenient for consumers, and less costly for states.

By Mary Branham Dusenberry

States are increasingly migrating from paper to plastic when it comes to child support payments they disburse.

More than a dozen states have launched prepaid debit/credit cards for these payments, and 30 states have issued RFPs (Requests for Proposals) for the cards, according to Jonathan Weiner, president of Prepaid Media, which provides business-to-business, integrated media and information services to emerging industries. One of its focuses is the growing network branded prepaid and stored value card industry.

"The main premise is moving from a paper-based payment system to an electronic-based payment system," Weiner said.

States have found the use of credit cards for child support payments to be more convenient for customers and less costly states.

"This is the biggest, most important issue for states today—how to reduce their costs as well as improve services," said T.

Jack Williams, senior vice president, strategic programs with Tier Technologies, which provides financial transaction processing for several states.

"Some people who receive child support don't have bank accounts," said Janece Rolfe, communications manager for the Texas Office of Attorney General, Division for Families and Children. "They're not able to use direct deposit, so they still get paper checks in the mail. There's a risk of it getting lost or stolen.

"The debit card," she said, "is more secure and saves tax dollars because we save 50 cents per disbursement."

Texas began converting child support payments that go through the state disbursement system from checks to debit cards in May and has rolled out the program throughout the state, Rolfe said.

Unlike many states, Texas allows the recipient to decide whether to move to the debit card and Rolfe said about 150,000 people are using it. Through educational outreach about the program,

This is the biggest, most important issue for states today—how to reduce their costs as well as improve services

—T. Jack Williams,
Tier Technologies

however, about 12,000 more people moved from paper checks to direct deposit.

"We also saw that as a win because of our push to go electronic," Rolfe said. "We distribute about 1.5 million payments a month. About 70 percent are distributed electronically ... either debit card or direct deposit."

Michigan also is moving its paper checks to debit cards and direct deposit for child support payments.

"Mailing a paper check is expensive for the state. We have to prepare the check, put postage on it and send it through the mail," said Marilyn Stephen, director of the office of child support in the Michigan Department of Human Services.

She said direct deposit is the number one choice for the customer.

Electronic payments—either direct deposit or debit cards—get to the consumer quickly and easily, even in times of disaster. Stephen said the effects of Hurricane Katrina offered a lot of lessons for many divisions of state government.

Many people were left homeless and moved from the area with no way to forward child support payments. "My colleague in Louisiana would have had an easier time" in getting support payments to consumers, she said.

"We've gone through disaster preparedness exercises to make sure we won't miss a beat in loading child support," Stephen said. "Especially in a disaster, they need to access funds."

Michigan piloted three counties with the program in November 2005, and began the official rollout in January 2006. Stephen said the state hopes to have all its state-disbursed child support payments in electronic transfer of funds by this month.

"The gradual nature of the rollout is important to allow us to focus on each county to make sure we provide good customer service to customers who may not have read the mailings or be familiar with the process," she said.

The response to the debit cards has been good, Stephen said.

"I think electronic transition of money is the wave of the future," she said.

Weiner said in the past basically there have been two card products—credit cards and debit cards.

"Prepaid is the third leg of that stool," he said. "The credit card is there as a lending vehicle issued by banks to their consumers. Debit cards are issued from banks to consumers.

"The distribution of prepaid cards is different. Third party companies are distributing these cards even though the bank has to be the issuer of these cards."

These range from manufacturers, who are increasingly issuing rebates on prepaid debit cards, to organizations like the American Red Cross, which issues cards for disaster relief, such as with Hurricane Katrina victims. Now states are joining the movement.

Here's how they work: Cards are issued to the consumer. When

a child support payment is made to the state disbursement center, the money is automatically loaded onto the card for consumer use. The banks issuing the cards often will give monthly statements to cardholders so they can track spending.

"The cards function at the point of sale or can operate at an ATM machine," said Williams. "You can't spend any more than you have available, but it looks and feels and acts like a credit card."

The cards in most states allow one or two free transactions at banks, so the consumer can get cash off the card if they choose. Williams said most people use their PIN to get cash back with purchases.

"When someone first gets their charge, they go to ATMs a great deal," he said. "Over the next four to six months, they go to the ATM much less. They don't want all that cash on them at one time. They begin to start banking on their card program."

Weiner believes states' use of the industry is in its early stages. "The next few years are going to see substantial growth," he said.

That's one reason government is a big part of the Prepaid Card Expo, set for Feb. 26–28 in Las Vegas.

Weiner, whose organization sponsors the expo, said the government portion will highlight the state and federal government programs that use prepaid media for disbursements. (For more information on the Prepaid Card Expo, visit www.prepaidcard-expo.com)

He said the discussions will include case studies of states that have implemented programs, their successes and things that could have been done differently.

Prepaid debit cards can benefit states in several ways, according to Williams. In addition to the state disbursed child support payments—only South Carolina does not have a consolidated child support disbursement unit, according to Williams—states are using the prepaid debit cards for things like unemployment benefits, entitlement programs, prison release funds and tax refunds. States, like many businesses, may also consider using the prepaid debit cards for health savings accounts, he said.

Michigan, for instance, also uses prepaid debit cards for its aid to needy families program.

New technology will allow states to enhance programs in the future.

"We have a statewide voice response system that a customer can check a balance," said Stephen. "They also receive in the mail an account sheet every month. They can keep track of it on a month by month basis as well.

"Lots of other states have converted to debit cards. Some of those cards are putting in place a system to alert the customer when money is loaded, through text, phone call, e-mail," she said. "That piece of alerting the customer when money is loaded is the next big thing for us."

She stressed that the change in child support payments is a national trend. Cost, convenience and efficiency are among the reasons for the trend.

"Being able to work more efficiently is something we always strive for," Rolfe said. "We know that sending out child support this way is a more efficient way to operate."

—Mary Branham Dusenberry is the managing editor for State News.

March 19, 2007

Sixtieth Legislative Assembly
Senate Human Services Committee

HCR 3004

CHAIR LEE AND COMMITTEE MEMBERS:

My name is Bill Neumann. I am appearing on behalf of the State Bar Association of North Dakota.

The State Bar Association of North Dakota supports HCR 3004, a resolution calling for the study of laws relating to child custody, visitation, and child support. Serious concerns regarding these matters were raised by many of the supporters of Initiated Measure #3, which was defeated at the polls. We opposed Measure #3, not because the concerns of its supporters were invalid, but because the measure itself was a poorly constructed way to address those concerns.

Because we believe there are some valid concerns regarding current custody and visitation law, we support this resolution. We also support it because the goal of achieving fairness and justice for all parties involved, including the children, cannot be achieved with a simple panacea like measure #3. The problem of achieving fairness and justice among divorcing parents and their children is fraught with great complexity and complication. Nevertheless, we cannot let that complexity and complication tie our hands, and leave us with nothing more than frustration and inaction. It is a problem that requires careful study and consideration.

To that end, if this resolution is passed and selected for study the State Bar Association stands ready to appoint a task force of knowledgeable and concerned people to assist an interim committee in the study of this subject. We will do everything we can to help see that an interim study results in concrete recommendations for specific changes to our laws that will address custody, visitation and support concerns in a fair and balanced way, changes that will seek to improve our laws for the benefit of all involved.

I should note the Legislature also has before it another, very similar study resolution, HCR 3008. We also strongly support that resolution. I

believe the only difference between the two resolutions is that HCR 3004 includes the study of child support in addition to issues of custody and visitation. The Bar Association acknowledges that child support is serious problem area for many divorced parents, and is a subject that should be studied. Our only concern is that child support is a very complex and unwieldy subject for study because of the complicating impact of federal regulations and the requirements tied to the availability of funds for needy children. While we support HCR 3004, and we recognize the inter-connection between custody and support issues, we recommend that the study of child support be separated from the study of custody and visitation issues, in order to keep the entire study subject from overwhelming the interim committee or committees charged with these studies.

If there are any questions, I would be happy to try to answer them. Thank you for your time, and your attention to this matter.

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Sixtieth
Legislative Assembly
of North Dakota

HOUSE CONCURRENT RESOLUTION NO. 3008

Introduced by

Representatives Klemin, DeKrey, Delmore

Senators Fischer, J. Lee, Nething

1 A concurrent resolution directing the Legislative Council to study the issues of fairness, equity,
2 and the best interests of children as they relate to issues of child custody and visitation.

3 **WHEREAS**, more than one-half of all actions filed in district court involve issues related
4 to family law, including divorce, custody, and visitation; and

5 **WHEREAS**, every child who is the subject of a custody or visitation issue has the right
6 to a determination that fosters the best interests of the child, including the child's right to a
7 secure environment and to the guidance, nurture, and emotional, physical, and financial support
8 of both parents; and

9 **WHEREAS**, North Dakota law provides that for the purposes of determining custody
10 and visitation, there is no presumption as to which parent will better promote the best interests
11 of the child; and

12 **WHEREAS**, concerns have been expressed regarding child custody orders and the
13 enforcement of visitation orders;

14 **NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES**
15 **OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

16 That the Legislative Council study the issues of fairness, equity, and the best interests
17 of children as they relate to issues of child custody and visitation; and

18 **BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and
19 recommendations, together with any legislation required to implement the recommendations, to
20 the Sixty-first Legislative Assembly.