

2017 SENATE HUMAN SERVICES

SB 2281

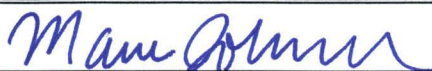
2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2281
1/23/2017
Job Number 27238

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to notice of motor vehicle operator's license restriction for nonpayment of child support.

Minutes:

Attach#1,#2=Sen. Grabinger, Attach#3=Anthony Edland,
Attach#4,#5,#6,#7,#8,#9,#10=James Fleming

V-Chair Larsen: Open the hearing on SB2281. Clerk read the bill. All committee members present except Sen Clemens and Sen Heckaman were absent.

Senator Heckaman: Ian went to look for Sen. Grabinger.

The committee decided to reconvene in the afternoon. **Chair J. Lee** called the hearing to order in afternoon:

Chair J. Lee: (.56) distributed Sen. Grabinger's testimony, a graph is from the interim committee and Anthony Edland. **Please see attachments #1-3.** He can go through it tomorrow. Others in favor of SB2281. None. Any opposition? Any neutral?

James Fleming, Director of Child Support Division, DHS- testified neutral. (4:25). Will be back tomorrow after reading testimony. **Provided attachment #4.** I believe that the bill as drafted may not accomplish what sponsor wants. If it was, I would be here in opposition. We don't want licenses, we want payment. To suspend by provided written testimony, **please see attachment #5.**

V-Chair Larsen: (13.45) In this letter, he says I was surprised that his license was suspended after going a month without making the support payment. Even though he was \$2000 short. He forgot to make the payment. This bill here is already in law, and says it is suspended, correct? This bill says it will be suspended in 2 weeks after he did it?

JF: What you just described is not the facts. I would encourage you to take it with a grain of salt. You need a release to verify the accuracy.

V-Chair Larsen: If you're a month behind, you lose your license with current legislation?

JF: My next testimony answers that. **Please see attachment #6.** Look at sub section 3, page 1. I brought an example of a letter we send out for license. **please see attachment #7.**

Senator Heckaman joined the committee (20:30).

JF: please see attachment #8- This shows what payment plans that the system generates. We have many payment plans available. This is a meaningful, serious process.

V-Chair Larsen: (referred to attach #2), He couldn't change until after the divorce was final. I am trying to help an individual out. I know you can go to you guys. He says, no, I can't do anything. Is that true? (23.26)

JF: There are a lot of what ifs and details. If a divorce involved, sometimes child support gets to court first. That amount is subject to judicial override, even in a divorce. Child support can be modified readily at any different times.

V-Chair Larsen: It cannot be looked at until the divorce is done?

JF: (24.36) I would not use the word 'can't'. It's a red herring for someone to say "I can't get it changed". Look on the back page attach #8.

V-Chair Larsen: (26.36) As I look at attach #7, do you revoke all of them? Do you do research to see if they have other licenses and do it all at one shot? If I had a business, you could pull those registration tabs, too?

JF: (27.04) We would not pull the tabs for business. When we started out with this process, we started with hunting only until we worked the bugs out. In today's world, we would check the box for recreational drivers and motor vehicles. We would rarely check the box for professional because we still go to the data base with all the states professional boards, so we would know when their licenses are.

Chair J. Lee: (27.33) How effective is the threat to revoke hunting license?

JF: The effect is 50% increase in collection, with this notice. Hunting is not cheap. We got feedback; how can you do this with deer license. Walked through his testimony. **Passed out attachment #9.** Jumped back to #5. (36.07)

Senator Anderson: Mr. Edland contends is in the last paragraph of his statement and he says, "Today, I'm fully paid but due to this burden from a system that does not offer justice I still has a suspended license until April". How does that work? What is the modification period? Do you have a release form, so we can talk about the specifics?

JF (36.35) He says it is suspended until April?

Senator Anderson: That is what he said.

JF: This is hard when I can't discuss case specifics.

Senator Anderson: Do you have a release form, so we can talk about the specifics?

JF: Of course. I very much do. I can send that to you. What I suspect, when you look at our entire case load and see where this confusion arises, a lot of our customers are suspended from DOT for drunk driving. So we may have had a suspension, DOT may have had the suspension; ours might have been lifted, but they are sentenced for a civil. The drunk driving suspension may have lasted until April. We are automatically connected, when they paid off the arrears, the plan stays in effect, but we can tell easily by computer what is going on. This tells me he is really misunderstanding what is going on, or you may have another reason for the suspension beside child support. (38.00) He passed out **Attachment #10.** We do not have enough tools in the toolbox. Returned to Attachment #5, page 8 average increase of 54%. Under our current practices with the current selectivity that our workers are trained to apply, we only issue a fraction of the cases. When we do issue it, that leads to an average increase of 54% in the number of months that you see some kind of payment and 58% increase in total collections. That is at risk, if the bill was changed to apply to the department's law and make changes in what we do. (41.57)

Senator Heckaman: I don't know that this bill is as much about the fact that we are concerned about you and the amount that you collect. It is the notice that I see in this bill. Is there notice that goes out to everyone that their license is suspended? Is there a notice that he would have gotten to say when is obligation was paid, and he had no other outstanding concerns, that he would have gotten that license back? (42.37)

JF: The part you missed today, was when I described the fact that for a long time the judges have been able to suspend licenses, but it was not effective. So this committee adopted legislation in 2003 to do it administratively. The bill before you is the judicial statute that no

one uses. In your handouts would include the administrative statute that we use. And there is a 30 days' notice in that statute.

Senator Heckaman: So he would have gotten a notice that his license was suspended.

JF: He got a notice that it was going to be suspended. He had 30 days to pay up or set up a plan.

Senator Heckaman: So he got a notice, if he had nothing else, when he paid his last obligation?

JF: Probably not the last obligation. We assume he knows what is being paid. He would have gotten a notice of our intent to suspend. He would have gotten a notice that the 30 days were up, and we didn't hear from him so his license was suspended. That would have gone to his address, and he by law is required to keep us apprised of.

Senator Heckaman: Going back to what Sen Anderson asked. He still has a suspended license. Another example; if a person has made all his obligations and their license is not suspended anymore, do they get a notice that they are fully reinstated?

JF: They would be notified. (44.30) I have a staff person with me, Beth. Is there a notice that goes to them?

Beth Dennis, Attorney. (45.33) I work for the child support central office. If they've been suspended, and come in and negotiate payment plan or call and negotiate a plan. They will come in and they will sign the payment plan. They get copy the administrative order which reinstates their license right there. We sign in and sign at the same time with them. Those orders are transferred to DOT and the license is reinstated. We had obligors that would come in on Friday, and want their license back for the weekend, so on Friday mornings we were signing a lot of administrative orders to reinstate the licenses. And it is almost immediate.

Senator Heckaman: Does the obligor get a written from DOT then, a written notice that their license was reinstated?

JF: (46.57) Under the law that we are using, the suspension and reinstatement is child supports decision to make. Not contingent on DOT doing anything. When it is signed it states that child support has reinstated the license and now the license is reinstated. DOT has their own process for what they do when they get the reinstatement.

Chair J. Lee: You can keep that in your billfold if you have a question about your license being reinstated until you actually have the physical license.

JF: Yes. the concern with sponsors, too many people with suspended license. An obligor who chooses not to pay has that responsibility.

Senator Piepkorn: Can someone answer Sen Hackaman's question? Is that person whose license is suspended who is notified 30 days in advance, but is he notified, near the end of his suspension, notified that the suspension will soon be lifted?

Chair J. Lee: I heard this answered three times now which is when they come in to sign the payment plan, the administrative ruling that says the child support division is reinstating the license is signed at the same time.

JF: I am sorry, Sen Piepkorn, if I am not answering your question directly. The obligor knows that it is reinstated? Yes, they do.

Chair J. Lee: I'm not sure why you would get a notice saying that in a week your license will be reinstated, if you have not signed a payment plan yet.

JF: The concern of the sponsor, that we share, is that there are too many people out there on suspended licenses. It is not our goal to do that. We are a program that is run on individual responsibility. An obligor who chooses not to pay, has responsibility for the consequences

for that. The government says it is not OK to not support your kids. The obligor know he should not be driving, but they are. Not being responsible.

Chair J. Lee: You had somewhere in here, what the amount of child support is overdue. \$264,536,152.00 is in back arrears and is owed to the children of ND. And a large chunk is us, HS, having to provide state services to these children. The other parent is not pitching in the money. You have a chance yearly to request a change in the payment plan. How is a payment plan determined?

JF: (51.02 There are three parts to payment plans. Current support-which is set by the court applying the child support guidelines to their income. Amount due for arrears- which is 20% of the current monthly obligation. Down payment-which is often waved especially if it is the first plan. Those three pieces.

Chair J. Lee: The monthly obligation is based on a % of income. If there is more to it than that, please tell us. It's not arbitrarily set by you, or a staff person, or the judge, or somebody. There is a structure that is anticipated to be reasonable even if it might seem a lot for the person who is paying it.

JF: The is correct. An example: Both parents were paying 33% of their net income for three kids. It is a percentage. Just as the amount of income tax liability is a % of income, so too is child support.

Chair J. Lee: 3 kids by 3 different mothers, you will have 3 child support payments all of which will be based on income. However, it does consider that there are other payments, but the kids still deserve the money. If you have been hanging with three different women, really does not matter, the kids deserve shoes.

JF: That is true. There is an adjustment, 3 kid order in same household, will be cheaper than 3 times when we do the order for single kids in three different houses. Kids in 3 households, but not triple.

Chair J. Lee: 53:35 example story. 54:15 (very colorful and complicated)

JF: The bill is introduced as amending the wrong law. The department is neutral on the bill for that reason. This effects judicial suspensions which never occur anymore. Judges now know that child support is on top of it. I invite you to leave that statute alone and not amending it. For 14 years, there has not been a case where there is a problem. We only suspend in a fraction of the cases. Understand that chart for what it is. Look deeper than just the idea of if we take license, how do they pay. They weren't paying, or we would not have taken it in the first place. They have to agree to pay current support plus that portion in arrears and agree to continue doing so and they will get their license back in full and be able to keep it. We don't want to restrict their license. (55.44)

Chair J. Lee: Some of the stuff is federal.

Senator Kreun: When you do make an adjustment, how does that affect the original divorce papers? When we adjust are we changing the divorce decree?

JF: That's why we never do a payment for less than what the court has said is due each month. What we work with is the amount extra that they pay toward the balance due. We never go less. (58.39)

Senator Piepkorn: Thank and commend you for the extremely thorough written information and explanation.

V-Chair Larsen: Are you stop at the border with our oilfield workers who are going back home, etc. Are you able to go down to Georgia and continue to work? How does that work?

JF: Reciprocity, that the Dept. of Transportation, has is if you're suspended in 1 state, you are suspended in all. We are still trying to enforce.

Chair J. Lee: Any further questions? Next please.

Glenn Jackson, DOT Director of Driver's License Division: Am here to provide neutral testimony. No written testimony. This bill only effect in a minor way. A court order to restrict a motor vehicle operator's license, I am not sure what that means. What type of restriction would that be? Not sure what that means. Second, is certified mail, and we never sent anything by certified mail. They do not sign for it is useless. Don't use it. Those are the two questions for concern. (1.01.02) Any questions?

Senator Kreun: I am understanding that we have one suspension from a court order or from Child Protective Services. If that individual gets license back through them, there still may be another violation out there that will be extended through your department that they won't get their license back through you.

Glenn: Yes, correct. If someone's license is suspended here for failure to complete a judgement, and go to another state and get a license there, they will not allow them to be licensed until they clear it up in ND.

Senator Heckaman: You said there is no such thing as a court order restrict what?

Glenn: I said- Court order to restrict a motor vehicle operator's license. Restrict it to what? Does not give information.

Glenn: We never notify anyone when their suspension is over. We have about 35,000 people suspended right now. We do not notify by mail when the suspension is over. They should know.

Chair J. Lee: (1:03:30 told a story 1:04:10)

Chair J. Lee: Let's recess the hearing until tomorrow.

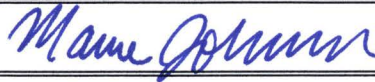
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Minutes:

Attch#1

Chair J. Lee: Let's get back to hearing on SB2281.

Sen Grabinger Dist. 12, Jamestown, ND: (2:05-6:20) He read his testimony provided in first hearing. (attachment #1 1/23/17). Personal story (7:20-8:00) Judiciary committee felt we needed to do something and our jails are full.

Senator Anderson: I understand that if an obligor has a plan worked out. You mentioned someone got fired, because he did not have a driver's license anymore. It seems to me, that employer willing to send some of that pay check to the state to pay their obligation, would resolve that issue. Unless the obligor does not agree to that. Then you have to go to court and force him to have wages garnished. Easy to resolve if obligor agrees. What does your client say about that?

Sen. Grabinger: Really the obligor is responsible and should be to keep up that plan. What she was describing was that they had driven after their license was suspended. They were the law breakers. When it was found out, that they were working without a license, the company had no use for them. With my employee, I went to bat for my employee. I tried to work through the system to try and get his license back, and we did. I wanted him to work for me. I don't think large company will do that. To dump that responsibility on them, when it is the obligor's responsibility, not the company's. You have a valid point the if the company wanted to help they could go to bat. (10.41)

Senator Anderson: If an obligor is not responsible enough to make arrangements to pay his obligation each month, isn't it time to suspend his license to get his attention?

Sen. Grabinger: If he is working for that company and they are paying his paycheck, they are responsible to make that payment for him. He does not do that.

Chair J. Lee: In IV-D cases, I believe that not IV-D are required to submit. Everybody has to submit payments to the state, the employers are required to take it out of paycheck.

Sen. Grabinger: We are notified as an employer, and we are notified of the situation. If we need to file their child support, we do.

Chair J. Lee: I was on a board, and we lay off a member because he was in suspension of driver's license because of child support. He did not tell anyone. This meant that we were

jointly and severally liable for whatever might happen when he was driving. He deserved to be laid off. So there are situations all the time, but there is an obligor obligation here. (12.57)

Sen. Grabinger: You are correct. I contend, though, that if a back child support, the judge can determine. You go back to the judge and he can determine whether you go to jail or not. We're saying with child support enforcement this goes too far to be suspending licenses. We're ok with driver's permit. but to go so far as have them charged for driving under suspension, if they get pulled over, and thrown in jail, we think is going too far.

Senator Heckaman: What is your understanding is of the relationship between a driver's license being suspended and not being able to get a hunting license? You can get by without hunting, but you need to drive to get to your job.

Sen. Grabinger: I would agree with you and say we already have that with your IRS refund. That can be held from these people. There are many things that can be done.

Senator Kreun: How did this person get into this situation, unless you quit your job, and you go through another process. Even if you had a work permit, if they are not paying, then they are still doing the same thing whether they got a driver's license of work permit, if they are not paying. The work permit is not going make them make their payment if they are not on the required payroll withdrawal. I don't understand. It's almost impossible to not pay your child support, unless you are between jobs. (16.29)

Sen. Grabinger: (Gave an e.g.) This gentleman, his wife kicked him out, and they separated and agreed to an amount that he would pay each month. After the divorce and the settlement, the judge determined he owed back payment for back child support all the way back from when they separated and he left the house. There was no clear indication of the court how much money he had spent. He had all that back support owed from the get go. He had been making a payment, but it was not determined by the court. I know he takes care of his kids. When he worked for me, his kids were a priority.

Senator Kreun: Then in most cases, if you go to child support and say OK this is what my amount is, and I owe arrears, can I pay \$50 a month or per week extra over and above my amount and still retain my license?

Sen. Grabinger: Yes, that is working out a plan. But his story is that he lost his job. And the plan goes out the window.

V-Chair Larsen: It's the guy who filed for divorce and there was a time frame when the divorce was not settled, yet, right?

Sen. Grabinger: Correct. He did not have an attorney and should have.

Chair J. Lee: He made several bad decisions. (19.09)

Sen. Hogue, District 38: I support of the bill, and am familiar with the situation that we have been discussing. We had it in the last session in Judiciary. We put it on as a study for the interim. We wanted to ask child support how many suspensions are out there, how often are you doing it; and there was an additional directive to find another way to be effect yet impose a less severe sanction. Child Enforcement did respond to us. But there was not any change they could support. I think the current state of the law unnecessarily degrades the folks in this situation. Child Enforcement is at the core a collection agency. What they do is establish the amount that the ND citizens have to pay. It has guideline, it sets the amount that has to be paid to the other parent, not the obligor. Over the past 15-20 years have given this collection agency an incredible amount of authority. Any other creditor could only dream about this much authority. We allow them to intersect tax returns, we allow them to suspend hunting and fishing licenses, and we allow them to take your professional license away. That still does not address that, but to me, we have gone too far. We allow them to take child support out of his paycheck. Then can intercept cooperative dividend from telephone or

electric co-op checks. Too many collection tools. They can't discharge this debt in bankruptcy. One of the few creditors, taxes, child support, and student loans cannot be discharged. They say, today, we need this one, too. Why it is degrading-because it is criminal conduct. You turn them into criminals when you suspend their license? I am interested in the policy. We know these people have to drive. ND doesn't have any public transportation that can support these 500 or so parents, all over the state, going to and from work. We are not a big place that has mass transportation. (23.39)

Chair J. Lee: You think the child support agency is turning them into criminals? Why are they not responsible for breaking the law by not paying child support?

Sen. Hogue: I think it is unnecessary to turn them into criminals. Every one of these people has to go to work.

Chair J. Lee: I guess which of the 500 has really been wronged without having violated the law and having absolved themselves from responsibility, and informing the agency that they had a job change, or lost a job, or had a medical emergency, etc. Something that would enable them to have an adjusted payment plan. We are absolving them of all responsibility and saying it is child support's fault? The deal is the court has said those people owe that money. And not all of them are paying, we have a bunch of state support that has to go to a lot of these families. \$264M still outstanding. That is a boat load of money. Most of those services are going to be out of the human services and health department. (25.56) This directive came down from the feds. Any more questions for Sen. Hogue?

Senator Anderson: Could you talk to us about the difference between a court removed license and one that's pulled by child support. Some of these people are getting suspensions from the court and claiming they did not know their license was suspended.

Sen. Hogue: The court has to order the suspension. I don't practice in this area, but I know that there is fair volume of child support collection orders that go through the court. They are pro forma orders. The suspension is the revocation that turns them in to the criminal. If you restrict their license, it is a different story. Law enforcement would like to change driving under suspension to an infraction to decriminalize it. My anecdotal- that person indicated he was unaware, and was trying to get a job out in the oil patch as truck driver. He had his CDL. His issue was that he goes to apply at an oil company that was going to increase his pay big time, and they saw his record, and said, no. We only hire people with clean records. He said he does have a clean record. But he had a suspension for child support that he suspended his license. You have to drive every day. Can't risk that for our company.

Senator Heckaman: Do you know, does a restricted license cause insurance premiums go up? Does a suspended license cause it to go up?

Sen. Hogue: I know if there is an accident. This is an administrative suspension. I don't know.

Senator Anderson: What about this contention that we hear time and again from these people that say they did not know their license was suspended. How does the process work with the court? Are they forgetting to read the mail?

Sen. Hogue: (29.59) I bet there's not one single answer to that question. A lot are transients that go from job to job and changing address. They be not getting their notices in some cases. The vast majority are fathers and struggle to pay bills. Some of them will be honest, and some of them are. I talked to Mr. Fleming yesterday, and he say that they did not get notice because our case workers have notes that say they talked to them about it. They can't say they didn't get notice. My concern, notice or not, I do not think we need to make them criminals.

Senator Heckaman: It says the court may restrict or suspend the license. I thought I heard yesterday from Mr. Fleming that their agency does it. Are they the court? (31.15)

Sen. Hogue: My understanding is the agency makes the motion to the court. Maybe they call up DOT and say suspend his license. They need some judicial intervention.

Senator Kreun: Do you think giving them a work permit will make them pay any quicker? If they're not paying with a driver's license, are they now going to pay or will they just blow it off again?

Sen Hogue: Let's face it. A lot of them are irresponsible, and no matter what you do. You could say we are going to water board and you still would have some parents who wouldn't pay. We are the policy makers in this room. How far do you want that continuum to go?

Chair J. Lee: Mr. Fleming, can you explain the chart, since we have one perspective and need another?

Jim Fleming, Child Support Director. (33:33-) I thank Sen. Grabinger and Sen. Hogue for talking to me about this bill and having this open discussion. It's not easy when we all have the same goal, which is to have children supported. We may not agree on the way to get there. The department is neutral on this bill. The amendment is that no one is applying the law. We work a lot with the judges; we have contempt proceedings that happen all the time. License suspension is purely administrative action. Refer to Attachment #6 from 1/23/17. If you want to change, this is the language you need to be working from. This is what you want to amend section 1 sub-section 3, we already have authority, sub-section d defines restricted how. This gave us authority a few sessions ago, by Rep. Klemin. The parents who don't act responsibly is what this bill is addressing. The vast majority do act responsibly. The court comes up with the obligation. That 30 days is mailed to them. If it comes back as undeliverable, we go to work to find them. I agree with Sen. Hogue; he makes a good case for why we don't want these to end up in suspensions, unless there is no better alternative. It is hard in rural area to get the work. You all know someone who got suspended license, but they found a way to get to work for that minimum period of time. It is not easy, and it is expensive. The authority exists for us but, is authority we don't need to use it much. That last part of this section, is on page 3, look at Part 10, -this is a unique type of suspension. After it ceases, may not be available to the public other than by order of the court of competent jurisdiction. Not supposed to go on driving record, when it goes away. I do not want to permanently prevent commercial truck drivers. When this law was made in to effect, in 2003; one of your colleagues got up and talked about the growing number of arrears in ND. It has continued to grow, unfortunately. We do have all these tools, but we collected 72.8% of current support. The remaining percent accrues as an arrearage. We don't collect as much arrears as goes uncollected in current support. This law accounts for 4% annual collections. So for the \$150M a year collected, that means \$6M of it attributed to license suspensions. We are at the core a collections agency. We do have the ability to seize tax returns. The obligors have ability to modify their W-4 to make sure they never have more than one that gets intercepted. And they do. We seize licenses. We can seize professional licenses, but we do not do it. Let's keep in mind if the license is suspended, child support isn't turn them into criminals. They have been provided notice of that suspension. They have choices.

Senator Heckaman: 50-09-08 is Century Code. What is 14-01-08?

Mr. Fleming: That a separate prevision of Century Code the empowers judges to suspend. That is the law judges were not using at all which led Sen. Fisher to propose that the agency should take it over and do it. That statute that was amended here, wasn't completely moot. Because the court may have them in contempt anyway, maybe not put them in jail but I am going to take your license away; plus 20% child support cases are not enforced by our

program. There you may have the custodial parent ask for the contempt action. That is the context in which a court can do it.

V-Chair Larsen: I referred to attach#7, this goes to the person who is losing their license. It says: restrict or suspend license or withhold. (41:49) Do you have data? When you hand this to them and they do not do anything, and you mail back to them. Do you mail back an automatic suspension in most cases? Any data on what you are restricting?

Mr. Fleming: The title says withheld would mean they don't have the license yet, and they will not be getting it until we left it. That one doesn't apply often. Restricted, we don't impose the restrictions. Suspension is what we do. The order that's issued uses the same words. It doesn't qualify and say you are restricted because you can only do this now. It says, you are suspended. To address the chart, I handed out the full study the other day. It is in your handout. (referred to attach#5) Our data changes every day and recycles because people can come in and out of plans forever. Can't get a good point in time grasp on. (43:18)

V-Chair Larsen: My interest in data, was are you issuing restrictions, but no, you go to suspensions. You just automatically restricting driver's licenses.

Mr. Fleming: We are. If they have responded to the notice, we worked out a payment plan, and it is not followed by suspension. If the notice goes the 30 days, and there is no response or successful payment plan. At that point we do go to full suspension. I sit back and try to be in your shoes. What info is helpful. I am a child support caseworker. If there is a history of payments, the 1st month of delinquency will go unnoticed and 2nd month hits delinquency, we still do not do anything. Our computer system has a handy edit. We get a 2 month alert, that will generate to the worker. The worker will look at it and hit the snooze button for 30 days, and see what happened the 3rd month. In the 3rd month, this person hasn't paid, and no explanation why and nobody said they lost their job, something has to happen now. We do the notice now. By law, has to wait another 30 days. So now we are up to 4 months behind. The worker will give it a week; in case they mail in the missing payments. You are talking about 4 ½ months before that action happens. Once the suspension happens, sometimes obligors start to pay. If they do not negotiate a payment plan, the license doesn't come back. That does not seem like the best outcome, but the problem is that the payment program was created to have security for the payments occurring ongoing, not just when the obligor feels like it. The payment plan concept creates some security. When you have a reinstated, there is a period of time when other enforcement actions can happen. I don't enjoy calling people out because of misinformation. I have a record for that obligation. The judgement took 4 months and not the longer period explained in the judgement. The obligor did not respond, did not participate, made no legal appearance at all, so they had to wait 120 days to go by default. There was no provision made, no statement made about credit for payments. That is the real background. From the public record, there is a contempt proceeding, where this obligor was thousands of dollars behind, even after the court acknowledged that he made a payment of \$1700 prior. This is not unusual. Didn't know about it, really? Have you had the same address, do you open the mail; an excuse you hear a lot. I won't say that the mail is perfect, but you need to take with a grain of salt.

Senator Heckaman: Is this electronic now?

Mr. Fleming: No, all through mail.

Senator Heckaman: Are you considering that?

Mr. Fleming: Only if the parent would consent. Not are not for this, and I do not think we would want to for this part.

Senator Heckaman: In this day and age, everything is electronic. Could the parent notify you of a change, etc?

Mr. Fleming: Yes, we do. If they failed to do something, we would still send it in the mail. Our web site is open 24/7. The only official notification is by mail. We do not use certified mail. Getting back to the chart. Chart attachment #5 of previous hearing, net goal hurry up get it reinstated. The preferred life span of suspension is a week or month or a year. Chart tells us that there are 4 active plans that have been around since 2006 with no plan. In an ideal world, you would have none that are older than 2 years. That tells you this process is working because there are very few long term suspensions.

Senator Anderson: What the graph shows is those recent suspensions that haven't been converted into a plan.

Mr. Fleming: That's correct, it doesn't show increase in volume.

V-Chair Larsen: Restriction on the license first, and I know the time frame extends out, but in the end run how much would the amount collected be? Is it going to stay 260, even if you went to a restricted license?

Mr. Fleming: It wouldn't be as effective, and it would be more work. Modern child support has moved away from judicial enforcement. A quarterly court hearing cannot be effectively enforced. If you wait 3 months not pay, it doesn't work. You need to have a more rapid system. the process is longer, more involved monthly obligation isn't being met, if that was a helpful thing, I would suggest that we wouldn't have this misunderstanding, but it applies to a very small fraction. The courts are too busy these days. Every quarter you need to send me your constituent cases. When you get to the bottom of it, folks are forgetting they got notified. (56.48)

Senator Heckaman: Do you have direct access into the DOT page to do that immediate suspension, or do you call to DOT and say this person is off the suspension as of today? (57.02)

Mr. Fleming: We have both. We rely on our computer telling DOT computer, every night at midnight, to do this. But some truckers get on the phone and we do the same to help them immediately. Let's work on the right statute. I do not want to kill the bill by fiscal note.

Chair J. Lee: There is talk that Sen. Hogue had a potential amendment on the current one. I said, go ahead.

Senator Kreun: WY is number one in collections and SD is number two. MT is 17th, what is ND?

Mr. Fleming: We are number 3. (58.51)

V-Chair Larsen: There was some discussion about when someone gets their license run for employers, etc. Where you saying that as soon as the person gets their suspended license back, that it is wiped from the DOT record. Or does it show that they had a suspended license at one time like Senate Hogue said? Do you guys erase that?

Mr. Fleming: We do not have any roll in erasing that. I've made a note to follow up with Mr. Jackson. The law is clear. It is not supposed to be a black mark on their record. The other thing is we run into is frequent customer confusion, because the same obligors by us, are suspended by someone else, because of other crimes.

Senator Clemens: I have a quick comment. On transportation committee, we looked at bill a week ago, no longer take possession of licenses. It will all be electronically. Driver gets to keep license for ID purposes.

Mr. Fleming: We don't take possession of license at all. It is still in their pocket. If you get stopped, you are flagged. We also suspend vehicle registrations. They have to be speeding for something to get stopped.

Chair J. Lee: (1.01.50) What if I am suspended because I did not pay child support, and you suspend my registration as well, but someone else in my family is driving my car?

Mr. Fleming: That causes a problem for that person who drives the car. DOT motor vehicle database name driven. Senior and junior live together, we've suspended dad twice. Whoops.

Chair J. Lee: As a courtesy to the sponsors, we'll look at the amendment and get you a copy. You can decide if there's something for us to do there.

Senator Kreun: In the bill, could we put in the employer that does all this work gets paid?

Mr. Fleming: The existing law on income withholding gives employer the ability and right to claim a \$3 cut for each check. 96% of new hires are reported on our web site for free. For electronic payroll, the law says that if you have X number of employees or more it must be electronic. We are at 60% of withheld money is remitted electronically.

Chair J. Lee: It does permit the business to just have one payment with all the names on instead of payments to all the different ones. When did we start state collection and then when did we start state distribution? How long does it sit in your office before the checks go out?

Mr. Fleming: Yes To You was brought online in 1998 and applied for all cases- IVD and non-IVD. In 2007 the state took over the regional child support units as is currently being proposed in the House for county social services. The state took over child support in 2007 and all of our enforcement actions became consolidated in one structure. All employees and all the offices were grandfathered in. (1.06.43)

Chair J. Lee: When you get the money, what's the turnaround before it is out the door?

Mr. Fleming: One business day unless the computer is broke.

Senator Kreun: Does your office take care of all the obligation of the parents that are paying child support?

Mr. Fleming: We are, in one form or another. (1.07.43)

Senator Kreun: I'm going to deal with your office one way or another. We are not piecing this together.

Chair J. Lee: The person getting the check gets it right away.

Mr. Fleming: We go a little bit further than federal mandate. The feds say in IV-D cases; you have to have it all come through SDU to you. In none IV-D cases, if it comes through income withholding, it must go through SDU must go through. In other none IV-D cases where there is no employer withholding, you can have it a direct pay. ND has never, ever done that. If we have one universal source of payment ledgers, and they can open and close the IV-D a million times, and you don't have to rebuild that ledger, there is no debate about what has been paid. It is all here. Other states are envious and wish they had our law. They have to spend the time to rebuild that ledger.

Senator Piepkorn: 50-09-08 sect 10- he read. (1.09.38) So it is not erased. But in a typical job application you can't be in Russia, it was court ordered.

Chair J. Lee: If an employer was checking a driving record, it would not be showing up as public record.

Mr. Fleming: I will follow up with DOT about this, to make sure it is happening. For a while, DOT felt the need to send their own order of suspension even though the law said, we do it. I think they stopped doing it.

Chair J. Lee: We will wait until Monday afternoon; we have to have the amendment from Sen. Hogue.

Chair J. Lee: Meeting is closed.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2281
1/31/2017
Job Number 27670

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to notice of motor vehicle operator's license restriction for nonpayment of child support.

Minutes:

No Attachments.

Senator Piepkorn: Sen. Grabinger and Sen. Hogue, their main focus is to change it from suspend to restrict.

Chair J. Lee: That's what they want to do, I don't want to do that. I know more about it than they do.

Senator Piepkorn: That's their goal.

V-Chair Larsen: In the rules, they can restrict, but what he stated was it just lengthens the time before they can get their money. They go ahead and try to do the restriction, there it's going to end up 4 months ahead of the game, they want to force them to use the restrict toggle first, and then suspend if they don't hear from them. It's 6 months before they start getting money these guys have already gone 4 months before they actually started yanking it. I'm for killing it. **I motion Do Not Pass.**

Senator Kreun: Second.

V-Chair Larsen: They may try to stand on the floor to defend it but I think if we state that, that already have the ability to restrict the license its just to them it's a waste of time.

Chair J. Lee: The other thing is it talks about 2 weeks, its already at 4 weeks. They've got more time in the administrative code than that. They know that the other part of law and rule is what they operate under.

Senator Kreun: We're not being harsh, by any stretch of the imagination, if you take a look at that, it's a little nudge to an individual, especially if you've got a job and you potentially going to lose your job if you don't have a driver's license. His employer will give him a hand, they've got some options to go through before they lose their license, an employer doesn't want to lose a good person.

Chair J. Lee: Well and the other point is there are suspensions on a person's record that don't have anything to do with child support. This isn't going to affect that anyway.

Senator Anderson: I did ask Mr. Fleming about the inference Sen. Hogue brought in about this stays on somebody's record, when they're applying for a truck driver's license, they see those previous suspensions on there, Jim said it's not supposed to happen. The law was

clear, and that's not supposed to happen. He was checking with DOT to make sure the message was clear over there and those were not part of the person's permanent record.

A roll call vote was taken.

Motion passes 5-1-1.

V-Chair Larsen will carry.

Senator Clemens wondered if he could change his vote, so we revisited.

Chair J. Lee: They're not using this part of code anymore, a different section grants them administrative rule, the procedure is more user friendly. Our option was to amend it to make it the same as the administrative rule, which then means they're both the same, or just say do not pass and work with the administrative rule, which aside from the fact that they can go from a restricted to a suspended license, it has 4 weeks instead of 2, it actually has a procedure that's more user friendly.

Senator Clemens: What part are they not using anymore?

Chair J. Lee: The statute, 14-08-01-07. They're not even using this section of law at all. They are now using administrative statute, which is more current, it supersedes it. That was the whole deal. Restriction before suspension.

Senator Clemens: That section still allows restriction also?

Chair J. Lee: it allows restriction before suspension. If I'm a real jerk and I'm not calling you, and you've tried to contact me, you've even talked to me on the phone, and I refuse to talk to you. I'm not willing to talk to you about a payment plan, and it isn't that I'm unable to, it's that I'm not going to; what has really been effective in getting people to come to the table to develop a plan is the threat of restriction and suspension. The first step is restriction, they have discretion. They first would restrict and then suspend.

Senator Clemens: Ok, I think I'm good. I like the idea of restriction first, and then if they don't want to cooperate, not you have the extra leverage of suspension.

Sen. Heckaman recorded a no vote.

Final vote 5-2-0.

New Amendments were proposed after the hearing, a Standing Committee report was not created.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2281
2/6/2017
Job Number: 27960

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Janet Bellamy for Marie O'Hara

Explanation or reason for introduction of bill/resolution:

A bill relating to notice of motor vehicle operator's license restriction for nonpayment of child support.

Minutes:

2 Attachments.

Chair J. Lee: Brought the meeting to order, all members present.

Mr. Fleming: Passed out his proposed amendment (Attachment #1). A work permit is technically a temporary restricted license. In North Dakota, you don't get a work permit until a license is suspended. DOT sends notice of suspension to the driver. The burden is on the driver to obtain the work permit. It's not a good faith system, bring documentation from employer that leads to the work permit. If adopt the proposed amendments. By limiting Child Support's authority to restrict, but not suspend a driver's licenses, you're saying we can't do anything. The proposed amendment would tell the department that the notice of suspension needs to include how to get a work permit. North Dakota does this today. The parent comes in with schedule and employer, send an income withholding form to the employer, and we sign a payment plan effective the first of the following month, and they walk out with their license back. We never get to the work permit stage.

In the context of child support enforcement, the most drastic thing to be done is a felony prosecution of a \$1,000 or more. The next severe thing to be done is contempt of court, if you can get it. Next severe is the driver's license suspension. This process is not targeted at the innocent obligator, it's the willfully delinquent. It's internal to child support so you don't have to go to court. There are lots of tools, looking at the population that we pursue for license suspension; this is a population that's not well enforced using the other tools. Under Senator Hogue's amendment, we've discussed the fact that until you get a suspension, there's no work permit. The alternative amendment, would be to say that a license can't be suspended unless there is an advisory to the customer on how to get the license back.

Senator Anderson: If the individual comes in, where does he come into?

Mr. Fleming: That process happens at any Child Support Office in the state.

Senator Kreun: That time frame was always such a lag after they were required to give that information on their schedule. How long does it take to process the work permit under the old circumstances?

Mr. Fleming: The work permit process can be transmitted by fax to DOT with the data being entered in real time. That night, they're reinstated.

Senator Hogue: The agency is here to set child support amounts for parents who need to support their children and be a collection agency. All the tools we've given them, intercepting taxes, intercept wages, take hunting licenses. It doesn't follow that you need to strip them of their liberty. As I said, we don't have mass transportation. We don't throw people in jail because they can't pay their bills. It's unnecessarily humiliating for these 500 obligors. You shouldn't give the collection agency everything that they want, at some point you have to say that you represent the people of this state and there's only so far you're willing to go. I stand in opposition to this agency continuing to suspend people's driver's license which ends up with the loss of liberty, and in some cases, them being incarcerated for the suspension. I think the agency has enough tools. I support my amendment.

Chair J. Lee: We didn't dream these up, this came from the feds 20 years ago. We also represent the custodial parent and the children, who are not being paid. Sometimes this is what it takes to get their attention.

Senator Hogue: These folks are non-compliant. Try to go one day without a driver's license. How far are you willing to go to chase these people? Why don't you put them in jail?

Chair J. Lee: All you have to do is contact the child support office

Senator Hogue: I concur.

(0:13:05-0:16:25) More detailed explanations were asked for regarding the restrictions, work permits, and suspensions.

(0:16:26-0:19:00) Mr. Fleming was questioned regarding the terminology he used in his proposed amendment versus that which he has used in testimony. An explanation was given that it should be licensee, not obligor, as this section also applies to non-parents who do not respond to a subpoena for records.

(0:19:10-0:28:15) **Senator Hogue** walked through his proposed amendment, attachment #2, and answered questions posed by several of the committee members for more clarification on different aspects of the proposed amendments.

Senator Kreun: Are we creating a legal ramification for these people if they are going to have to go through this process? Will they need to hire an attorney; it's currently handled by the department without any attorneys. If you start going through this process and they don't get notification and a sheriff is required to be sent out? Is the sheriff going to arrest them? Are we creating a problem here?

Senator Hogue: That's the problem we have now; relates back to Senator Grabinger's testimony. These folks are occasionally being thrown in jail because they're driving with a suspended license. It is a crime to drive without a license. If you remove an agency's ability to suspend those licenses, the legal problem should go away.

Chair J. Lee: Your new language talks about going to court.

Senator Kreun: I'd like to have my DUI not take my driver's license away. You're putting children in danger by not paying for their care. There are consequences for every action you take. If you don't follow through, according to Mr. Fleming, if we keep that type of process that individual can take care of that in a day or 3, at the most. If you go through the court system, that'll take a while. So is the sheriff going to chase them down, then will there be an altercation and the individual will end up in jail?

Chair J. Lee: The purpose of child support collection is to help the children. It's not to hold the hand of the parent. The goal of the child support collections office is to make sure the child support is collected through the legal means available. I'd hate to give a delinquent

payer more consideration than the child. It comes back to the state programs. This isn't a table full of hard hearted folks.

Senator Clemens: If we suspend the license, how is that going to help pay?

Chair J. Lee: The threat of suspension is what pays the child support. You can't get a restriction unless something changes in the language of the bill.

Senator Clemens: Do we have much evidence that the threat of suspension is actually going to help in collection?

Chair J. Lee: We'll have to ask Mr. Fleming about that.

Senator Grabinger: I don't disagree with you in the collection and the desire to collect the money that's owed. In some cases, we're going too far, and Senator Kruen asked about the court. We have in statute, the ability for the court to dismiss a charge under the suspension and revoked license section, by the defendant if their operator's license is reinstated within 60 days. It gives them a way through the court, however, these people have to hire a lawyer, nothing different than what Senator Hogue is asking. Most of them wouldn't know that this is in code and they would have the ability to get the license reinstated. I think Senator Hogue did a lot of good work I agree we went too far, a restricted license should be a first attempt, rather than going directly to a suspension. Mr. Fleming makes it clear it doesn't work that way, you have to have a suspended license, then you get a work permit, it behooves us to allow them to get a restricted license, prior to the suspended license. If they don't adhere to it, then they get it suspended. If you don't accept that as an option, then the amendment from Mr. Fleming does provide assurance if you choose to go that direction.

(0:35:43-0:37:00) A brief discussion about the number of complaints received by the Senators and Mr. Fleming.

Mr. Fleming: There are thousands suspended, currently there are at least 2,200 suspended, with another 1,800 in payment plans. As an agency, we respect that it is ultimately your decision on what's a good idea or not. We've talked about the collections if this is not an effective process. Actual notice is a federal mandate violation, I didn't catch that in the amendment and didn't have a chance to brief Senator Hogue. The provision in here about actual notice violates federal mandate. It says, you have to be able to notify them immediately by first class mail, at last known address, if all else fails. That part of the bill if you leave it in, is a Federal compliance problem.

The lack of ability to sometimes suspend for driver's license violations is a federal compliance question mark. The feds say we're supposed to be able to restrict, withhold, or suspend. Under the amendment, there would be no ability to suspend ever. It just says only restrict driver's licenses. If we were able to recirculate it in 30 days, or even shorter time. In today's email environment, maybe 30 is good enough to be 15. There isn't a stepped up method of saying restricted and then suspended. Under the amendment if you restrict it only; it's not gone through DOT. The fiscal note for them to make this happen would then kick you over to appropriations; but nobody's asked for a fiscal note, as the amendment hasn't been adopted. Be careful what you do here. Please don't put us out of compliance, that implements our program as well as TANF block grant.

The reality is; we can only suspend it once. We try hard not to do that. I agree that we should put it in the notice. We can worry about people who move and don't get their mail or send their forwarding information to child support. The same law applies to willful evaders. In the worst case scenario, you will still be able to drive, even if you're not working. That's where we run into federal compliance. Since the inception 14 years ago, aside from anecdotal you have not been deluged with complaints. The collection hit is real, especially with a restriction that is essentially a slap on wrist and non-enforceable.

Senator Heckaman: What do you mean when you say we can only suspend once?

Mr. Fleming: Once a license is suspended, there is nothing more Child Support can do to increase the pressure on the obligor.

Senator Heckaman: If they get it back can you take it again?

Mr. Fleming: Once they get it back, it can be suspended again. Once it's suspended, that's the worst we can do to them

Vice-Chair Larsen: If it's suspended, they can go in and apply for a work permit, does that happen now? If they do get their license suspended, can they make steps towards getting a work permit if needed.

Mr. Fleming: Yes, we can do that today. It was added a few sessions ago. We did not testify in support because we felt it wasn't needed. We have customers who do take advantage of that, but by the time the employer is identified and you start working on schedules. The employer information is gathered and the license is given back. With 60,000 child support cases the odds of not having anyone complain is remote, but we've worked hard be smart about how we do this.

Senator Heckaman: You talked about the child support enforcement, where the obligor would go and visit with a case worker. Are they in every county social service office, are they in human services, and are you laying off people with the allotments.

Mr. Fleming: We are not laying people off. As a collection agency, we are producing revenue. I'm hoping that if appropriations decide they have to prioritize where the layoffs are; they won't cut off the revenue producing entities. We have 8 field offices and an ability to handle this electronically if the customer is willing.

Senator Heckaman: Are the 8 field offices in your human service centers?

Mr. Fleming: Same towns, not always in the same location.

Senator Anderson: You also have the process where you can go to the court and ask for the license to be suspended. Am I correct?

Mr. Fleming: Yes, that is correct?

Senator Anderson: Does that satisfy the feds to be able to suspend the license through that?

Mr. Fleming: If that section was left alone, it would be the theoretical possibility we would need, but it hasn't been used in the 14 years that the department has had the option. This committee endorsed doing it administratively because judges weren't doing it anyway. I can tell the feds; ND still has theoretical ability to suspend a driver's license.

Senator Anderson: You suspend about 500 a year, is that close?

Mr. Fleming: No, suspend more than that. We notify much more than that every year. Notices frequently resolve in a payment or payment plan. We get obligors who have received the notice, but have lost their job. The worker holds off on completing the suspension action by notifying their caseworker of impending employment.

Senator Anderson: Did you provide us with the number of suspensions a year? The number of those that result an agreement and the number who actually get suspended.

Mr. Fleming: That information is not in your record, you have interim report that shows the payment plans in effect. This is a tool that our workers use a lot. We don't capture data every week or month that would allow us to compare the numbers. It's a forever changing number. The roughly 2,200 suspended today is not anywhere close to the full amount of obligors that are delinquent or eligible. In the last 6 months, 2200 people suspended, of those people suspended in September, 230 are reinstated today. Most of them are short lived. The question is; do you believe its broken? It's going to be a big deal. We agree in principal with Sens. Hogue and Grabinger. We try to talk ourselves out of suspension if we have any hope of working with the obligor. At some point there's nothing else to do.

Chair J. Lee: Look at testimony #9 from January 23, 2017. (Job #:27238), All the charts have good information to refresh your memories.

Mr. Fleming: The chart does show how the average payment plan doesn't last long until it's converted into a reinstated license. It doesn't mean the volume is going up.

Senator Heckaman: If we use your amendments, is there a FN?

Mr. Fleming: No, there is not.

Chair J. Lee ended discussion on SB 2281.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2281
2/7/2017
Job Number 28024

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Maura Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to notice of motor vehicle operator's license restriction for nonpayment of child support.

Minutes:

No Attachments.

Senator Anderson: My penchant if we wanted to approve the small amendment that says they may not suspend the license without providing notice, I'd be ok with that one, otherwise, I'd vote to kill the bill.

Senator Heckaman: I move to reconsider actions on SB 2281.

V-Chair Larsen: Second.

Chair J. Lee: Our goal is to make the bill as good as it can be before it might die, I'd be happy if it died, but I know Sen. Hogue is very effective on the floor. That doesn't mean I'm not up to the challenge, but because of that Sen. Anderson has a point about adding Mr. Fleming's amendment.

A roll call vote was taken.

Motion passes 5-2-0.

Senator Anderson: Keep in mind this amendment is to 50-09-08.6, this bill is currently in 14-08.107, so if we're going to go with this amendment, we had to either add another section to this bill and we're still stuck with what's in the bill unless we change what's in there.

Chair J. Lee: Actually the amendment is a Hoghouse, if you look at the top.

Senator Anderson: If we take the Hoghouse and change 50-08, then we don't have this. I'll

Move Hoghouse amendment.

Senator Kreun: Second.

Senator Clemens: This Hoghouse?

Chair J. Lee: That means that all of this goes away, and we put Fleming's in.

Senator Anderson: It makes it difficult to oppose it on the floor. If we're in favor of the Hoghouse, because none of that language is there, they would have to have a floor amendment to put it back in.

Senator Heckaman: I don't think it's ideal, it's not what either Sen. Hogue or Sen. Grabinger were asking for, I think it's better than what we had before, and it may in the long run address what those concerns are. I'll support amendment.

Chair J. Lee: Mr. Fleming, said yesterday the comments made about the records showing a suspension, he went to DOT and they were fixing it, the whole conversation has led to things happening.

Senator Anderson: The fact that we've had this discussion will concern the department, and they'll be more careful than they have been in the past.

Chair J. Lee: I really hate to take this tool away, when sometimes it's the only thing that works.

Senator Clemens: If I recall, Mr. Fleming said this takes a day, and can be done over the phone?

Senator Piepkorn: Regardless of fate of bill, the comments on the marks being on the driving record, that's not going to be there. Some good came from this.

Chair J. Lee: They didn't know that DOT wasn't doing it. Now they've resolved it.

A roll call vote was taken.

Motion passes 6-1-0.

Senator Heckaman: I move do pass as amended.

Senator Piepkorn: Second.

A roll call vote was taken.

Motion passes 6-1-0.

Senator Anderson will carry.

Chair J. Lee: Closed the hearing.

February 7, 2017

CM
2/7/17

PROPOSED AMENDMENTS TO SENATE BILL NO. 2281

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 50-09-08.6 of the North Dakota Century Code, relating to notice of a motor vehicle operator's license restriction for nonpayment of child support.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-09-08.6 of the North Dakota Century Code is created and enacted as follows:

The state agency may not suspend a motor vehicle operator's license without providing written notice to the licensee as to how the licensee may obtain a restricted operator's license under this section for use of a motor vehicle during the licensee's normal working hours."

Renumber accordingly

Date: 4/31 2017Roll Call Vote #: 1

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES**
BILL/RESOLUTION NO. 2281

Senate Human Services Committee☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	<u>X</u>		Senator Joan Heckaman		<u>X</u>
Senator Oley Larsen (Vice-Chair)	<u>X</u>		Senator Merrill Piepkorn		<u>X</u>
Senator Howard C. Anderson, Jr.	<u>X</u>				
Senator David A. Clemens	<u>X</u>				
Senator Curt Kreun	<u>X</u>				

Total (Yes) 5 No 2Absent 0Floor Assignment Sen Larsen

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

Date: 2/7 2017Roll Call Vote #: 12017 SENATE STANDING COMMITTEE
ROLL CALL VOTESBILL/RESOLUTION NO. 2281Senate Human Services Committee☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____Motion Made By Sen. Heckaman Seconded By Sen. Larsen

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	<u>X</u>		Senator Joan Heckaman	<u>X</u>	
Senator Oley Larsen (Vice-Chair)		<u>X</u>	Senator Merrill Piepkorn	<u>X</u>	
Senator Howard C. Anderson, Jr.		<u>X</u>			
Senator David A. Clemens	<u>X</u>				
Senator Curt Kreun	<u>X</u>				

Total (Yes) 5 No 2Absent 0

Floor Assignment _____

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

Date: 2/7 2017Roll Call Vote #: 22017 SENATE STANDING COMMITTEE
ROLL CALL VOTESBILL/RESOLUTION NO. 2281Senate Human Services Committee☐ SubcommitteeAmendment LC# or Description: 17.0674.02002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Anderson Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)		X	Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 6 No 1Absent 0

Floor Assignment _____

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

Date: 2/7 2017Roll Call Vote #: 3

**2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2281Senate Human Services Committee☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____Motion Made By Sen. Heckaman Seconded By Sen. Piepkorn

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	<u>X</u>		Senator Joan Heckaman	<u>X</u>	
Senator Oley Larsen (Vice-Chair)		<u>X</u>	Senator Merrill Piepkorn	<u>X</u>	
Senator Howard C. Anderson, Jr.	<u>X</u>				
Senator David A. Clemens	<u>X</u>				
Senator Curt Kreun	<u>X</u>				

Total (Yes) 6 No 1Absent 0Floor Assignment Sen. Anderson

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

REPORT OF STANDING COMMITTEE

SB 2281: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2281 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 50-09-08.6 of the North Dakota Century Code, relating to notice of a motor vehicle operator's license restriction for nonpayment of child support.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-09-08.6 of the North Dakota Century Code is created and enacted as follows:

The state agency may not suspend a motor vehicle operator's license without providing written notice to the licensee as to how the licensee may obtain a restricted operator's license under this section for use of a motor vehicle during the licensee's normal working hours."

Renumber accordingly

2017 HOUSE TRANSPORTATION

SB 2281

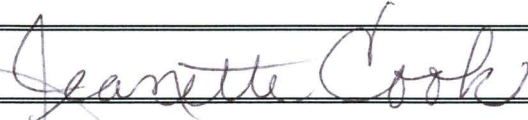
2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

Engrossed SB 2281
3/3/2017
#28692

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to notice of a motor vehicle operator's license restriction for nonpayment of child support.

Minutes:

Attachment #1

Chairman Ruby opened the hearing on SB 2281.

Senator Grabinger. District 12, spoke to introduce and support SB 2281.

Senator Grabinger: The bill as it stands today is totally different than what was originally put forth. Some of us feel that Child Support Enforcement is doing suspensions on drivers' licenses without due process. They are going forward. If someone isn't making their payments, they try to notify them, and they notify the local law enforcement, and then put the person's license on suspension. The person is being caught and arrested. If you get caught driving under suspension, you go to jail. Some of us think that we should be giving them better notification and work release. Sometimes a person will not get their notification, their license is suspended, and then they get stopped and put in jail.

The bill today is an amendment by Jim Fleming from Child Support Enforcement. I support the amendment. It provides some notification and allows for a restricted driver's license. That is what we would like, so the people will get the opportunity to get a worker's permit and keep working. They can't pay child support while they are in jail. If we put fines and fees on them for driving under suspension, it just adds to the problem. We need them to work and make money, so they can pay their child support and take care of their responsibility.

Chairman Ruby: The process that they are using will still be done, but would this be another notice to let them know how to obtain their restricted operator's license? Is this really doing what you intend it to do? If they send out a written notice, that they don't get, then they send out a second notice; what if they don't receive that as well? Won't they will still be in the same situation?

Senator Grabinger: Yes, but they are making an effort to let that person know what their options are to get a restricted license.

Vice Chairman Rick C. Becker: Originally it gives you two weeks, so it gives you a time frame in which to get the restricted before it is suspended. But as I read the new imported section, it says that the license cannot be suspended until written notice is given. Do you see a problem there where there is not a time period? Then they would not have time to get the restricted yet.

Senator Grabinger: That is a valid concern. I believe that there is a time frame, but Mr. Fleming will explain the process.

Vice Chairman Rick C. Becker: This was explained satisfactorily to you as a prime sponsor?

Senator Grabinger: Yes, the amendment is a change in the right direction. I will support that.

There was no further support for SB 2281.
There was no opposition to SB 2281.

Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support), spoke to respond to previous questions.

Jim Fleming: There is a lot of misunderstanding about the process. The way the bill is drafted, there is only one section out of ten in the law that is here. The rest of the law has a very specific procedure that has to be followed before this part happens. Our goal is to make the suspension of drivers' licenses as rare as it can be without losing its effectiveness. We have statistics to show that to retain a license after a person enters a payment plan, their payments increase 50% from before they signed the plan. We know it is an effective tool. It is also effective as a potential. Once it is taken away, the potential is gone. Then you have to look at contempt or other tools to collect it. We share a goal to motivate behavior to avoid license suspension.

The law has two ways that a driver's license can be suspended for failure to pay child support. One is to ask the court to order it as a condition of contempt. The other is for child support to do an administrative order. Legislators adopted the administrative authority because the judicial one was not being used. It took so long to get to the court, that it didn't motivate obligor behavior. It could take up to six months, and it was really no incentive to stay current. Under the parts of the law that are not before you, a person needs to be two months or \$2000 behind. If that happens, the child support program **may** issue a notice of license suspension. It is an intent to suspend. At the end of February statewide there are \$258 million dollars of unpaid child support. All of us have an interest in getting that money collected because of what it means if children are supported by their own parents instead of doing without. That support is owed by 18,135 people. Today there are 2,200 that have suspended licenses of one kind or another. That is 1/9th of the people that owe who are suspended.

The way the process works is that the computer system sends an alert to the worker that says this parent is now eligible is for license suspension, look at the case and decide what you want to do. The worker then goes into the system and reviews it manually. The computer does not do that. This is an area of the greatest thought and judgement about whether this

will work or not. If a person has a two-year history of paying, it may be strange that they are not paying. The worker will call to find out what is going on. Or they might look at it and find that this person never pays until we issue the notice to suspend, then they start making the payment. So, then the notice is issued again. There may be other reasons for nonpayment. The word **may** suspend means they can make a decision to suspend or not. The reason that we may not suspend is that once you suspend the license, it doesn't help them get a job and make payments. It gets in the way of a job and making payments. But, it can be an effective tool.

The original bill was working with the judicial statute which no one is using anymore. It is actually applied in many other statutes about contempt that would have a notice provision attached to it. We suggested that amending the judicial statute was not the best idea; we want to look at the administrative one. This committee adopted an interim recommendation that said the power to suspend licenses should include the ability to get a work permit.

21:00

Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support), spoke in a neutral capacity on SB 2281 and provided written testimony. See attachment #1, pages 1-2.

27:00

Chairman Ruby: Do you envision that you would send a separate notice or that this information would be included in the notice of what they could do to get their license back?

Jim Fleming: We would include this in the notice of suspension.

Chairman Ruby: Are all the provisions of that in statute, or would this be the only provision on that notice in statute?

Jim Fleming: I think that this would be the only provision mandated in statute, but each provision in the suspension notice, ties to a part of the law.

Representative Jones: You have the mailing addresses. Do you also have e-mail addresses?

Jim Fleming: We try to capture them, but we are not ready to rely exclusively on e-mail yet, unless the customer says it is okay. Then we do that.

Representative Jones: Would you be amenable to us adding electronic notice?

Jim Fleming: We are fine with that, written to us though can already include electronic mail.

Representative Owens: It sounds like you try to do this judiciously. I am wondering why you don't use certified mail to prove that the person got the letter?

Jim Fleming: We are not allowed to do that. Under the terms of the federal program our notices need to be adequate if they are mailed to last known address. I agree that it would be a good way to make sure that the notice was received, but we also have an Appropriations

Committee looking at a postage line item and wanting us to find savings. This is a theoretical problem, but it isn't happening with any kind of frequency. We frequently hear that someone didn't get their letter, but the times that the mail legitimately got lost are very few.

Vice Chairman Rick C. Becker: The amendment effectively neuters the bill. Do you agree?

Jim Fleming: The original bill amended the wrong law. So, that would not have changed current practice at all. I understand your point. The idea of going with restricted, rather than suspension, as you apply it to an administrative process like ours, it is not workable because of the way suspension and work permits work in North Dakota. You first suspend the underlying license, and then you obtain a separate work permit. So, the goal is restriction, but prohibits suspension. So, essentially we can't do anything.

Vice Chairman Rick C. Becker: Are you are telling me that what you have here (in the current bill) is a small administrative change that you are going to do anyway? It doesn't make a big difference to the citizens of North Dakota if we pass or fail this; does it?

Jim Fleming: It improves the notice and helps us deal straight up with people, but I agree with you.

Vice Chairman Rick C. Becker: Does the Century Code or administrative code say two months or \$2000, whichever is less?

Jim Fleming: It is in Century Code.

Vice Chairman Rick C. Becker: For someone who has a high child support payment, couldn't that mean one month?

Jim Fleming: I could be true, but most case workers would not suspend after one month for someone who has a \$2200 obligation. They clearly have enough other things to do with their time.

Vice Chairman Rick C. Becker: Do you know what Code it is?

Jim Fleming: The Century Code is: 50-09-08.6.

Vice Chairman Rick C. Becker: Does the program that you have with the federal government specifically prohibit you from sending return receipt mail?

Jim Fleming: Yes, it does. We are not opposed to sending certified mail, but it is \$3.00 an item for thousands of mailings over the course of the biennium for a very small suspension rate. Usually the notices stimulate activity, and we don't need the suspension. Also certified mail is something you need to sign for. The way the mandate is set up, it is to avoid folks being able to claim that they didn't get legal notice, simply because they refuse to come to the post office to sign for it. That is why at the end of the day the last known address need to be adequate.

Vice Chairman Rick C. Becker: Does spousal support also go through your agency?

Jim Fleming: It does if recommended by the court. If it is a spousal support with no children, we don't do anything with it. If spousal support and child support are owed to the same person, then they are collectively referred to as child support for purpose of our enforcement. That is by federal law.

Vice Chairman Rick C. Becker: We lose some of the intent when we have no two-week grace period in which to obtain the restricted license. This seems to not really take care of the part where you can send notice, but then there is no time to procure a restricted license.

Jim Fleming: The notice of intent to suspend is sent 30 days in advance, which is two weeks longer than the original bill would have provided for judicial.

Vice Chairman Rick C. Becker: I think you fully answered my question. Does notice that you are going to include to obtain a restricted license, go with the intent to suspend not the notice of suspension?

Jim Fleming: We were planning to put it in the order of suspension, as the amendment was worded. If the committee feels it is beneficial to put that provision in the notice as well, we can do that.

Vice Chairman Rick C. Becker: How long do they have from the time they get their notice of how to obtain a restricted license before their license is suspended? Zero days, correct?

Jim Fleming: Correct. In the Senate we talked about if they called to get a work permit, we could make that happen overnight.

Chairman Ruby: When you send the suspension order out, is it done right then?

Jim Fleming: Yes, when the notice is out, the suspension occurs, but keep in mind that they have been given 30 days' notice that this **will happen** if they don't respond to the notice. They know 30 days ahead, and they chose not to respond or negotiate with child support.

Representative Paur: If you send out a letter with intent to suspend today, do you say that on April 3rd, your license will be suspended? Then they know that after that date they cannot drive?

Jim Fleming: We do not give a specific date. The notice says if you fail to make a payment and don't negotiate a payment plan with child support, that your license **can** be suspended in 30 days. Our case workers, before they actually issue the notice of suspension, will call and find out what is going on.

Representative Nelson: When you suspend and restrict are you doing that through direct access to the driver's license system, or are you telling the Department of Transportation that you suspended someone?

Jim Fleming: Our computers talk to each other nightly. The Department of Transportation does not send their own letter.

Representative Nelson: When you say you are changing the procedure, are you doing that through administrative code or are you just talking an internal policy?

Jim Fleming: It is internal in child support. The terminology in the notice is not spelled out in administrative code.

Representative Jones: I can't find the definition of arrears in Code in Section 50.

Jim Fleming: There is a definition of arrears registry in Chapter 59-08.6, Subsection 2, Part B.

Chairman Ruby: The question was brought up, if the bill is really necessary since you are already going to do this as a policy. You have provisions on what it will take for them to get their license back. We would just be putting one aspect of that in statute, which you will be doing already as a policy. I don't like to see us add things into statute just to add more law.

Jim Fleming: You have a good point. I am the director and have given the assignment to make this change already. I also respect the rule of this committee and other committees as the Board of Directors for this big company.

Vice Chairman Rick C. Becker: It is in 02.7 Is that a federal mandate, the 2 month or \$2000?

Jim Fleming: No, it is not.

Senator Grabinger: Some of these people, the obligors, are over the \$2000 the minute the judge issues the decree of child support.

Representative Owens: Does the situation of suspending the motor vehicle operator's license currently go on the individual operator's license report? But, are you changing that now?

Glen Jackson, Director of Drivers' License Division North Dakota Department of Transportation: Yes, when someone is suspended, for whatever reason, that goes on the driving record. We were keeping that on the record, so an employer could see that as a past suspension within a given period of time. But since it is a non-traffic violation, and that doesn't have anything to do with their ability to effectively and safely drive a vehicle, we have pulled that out so it is not visible unless it is a current suspension.

Representative Jones: How do you get notified that a suspension is current?

Glen Jackson: The suspension information for someone who hasn't paid child support is entered by child support. The computers do talk, and the suspension takes place based on their timeline. We don't do the notification.

Vice Chairman Rick C. Becker: Is the "arrears registry" a public record that identifies you as a bad parent, and that anyone could see?

Jim Fleming: It is not written down anywhere. It is labeled a registry for purposes of being a definition that can be incorporated in other sections of the Century Code. There is no such list. We could extract one from our computer if we needed to, but it is not printed or published or available.

The hearing on SB 2281 was closed.

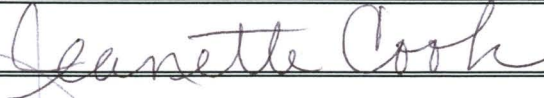
2017 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2281
3/3/2017
#28681

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to notice of a motor vehicle operator's license restriction for nonpayment of child support.

Minutes:

Chairman Ruby brought SB 2281 back before the committee.

Representative Anderson: According to the person from Human Services, this has already been taken care of. I don't know why it would be necessary.

Representative Nelson: That is why I asked if they were doing it in administrative code or if it is just a policy. They are changing their policy, and they can change their policy very fast. If we don't pass this, then it is nowhere in law. It is not going to be in administrative code or in Century Code. They could change the policy next week again. I think it is good to have the notice. I would like to assure that people do get the notice.

Representative Nelson moved a DO PASS on SB 2281.

Representative O'Brien seconded the motion.

Chairman Ruby: They do seem to have gotten the message that this is something that will be an improvement. It is a policy, whether they put it in administrative rule or not. The other things that are on the notice are not in statute. From my standpoint I have a problem putting this one in when none of the others are.

A roll call vote was taken on SB 2281: Aye 8 Nay 6 Absent 0
The motion carried.

Representative Dobervich will carry SB 2281.

Date: 3-3-17
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2281**

House Transportation Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Nelson Seconded By O'Brien

Representatives	Yes	No	Representatives	Yes	No
Chairman Dan Ruby		<input checked="" type="checkbox"/>	Rep. Gretchen Dobervich	<input checked="" type="checkbox"/>	
Vice Chair. Rick C. Becker	<input checked="" type="checkbox"/>		Rep. Marvin Nelson	<input checked="" type="checkbox"/>	
Rep. Bert Anderson		<input checked="" type="checkbox"/>			
Rep. Jim Grueneich	<input checked="" type="checkbox"/>				
Rep. Terry Jones	<input checked="" type="checkbox"/>				
Rep. Emily O'Brien	<input checked="" type="checkbox"/>				
Rep. Mark Owens		<input checked="" type="checkbox"/>			
Rep. Gary Paur	<input checked="" type="checkbox"/>				
Rep. Randy Schobinger		<input checked="" type="checkbox"/>			
Rep. Gary Sukut	<input checked="" type="checkbox"/>				
Rep. Robin Weisz		<input checked="" type="checkbox"/>			
Rep. Greg Westlind		<input checked="" type="checkbox"/>			

Total (Yes) 8 No 6

Absent 0

Floor Assignment Dobervich

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

REPORT OF STANDING COMMITTEE

SB 2281, as engrossed: Transportation Committee (Rep. D. Ruby, Chairman)
recommends **DO PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2281 was placed on the Fourteenth order on the calendar.

2017 TESTIMONY

SB 2281

SB 2281
Hatch #1
1/23

Testimony of Senator John Grabinger
ND Senate Human Services Committee
January 23, 2017

Madame chair and committee members:

I'm Senator John Grabinger and I represent District 12, most of the great city of Jamestown. I come before you today to support SB 2281. This bill is to continue to restrict the driver's license of a person for non-payment of child support, but not suspend it. This would allow the obligor to possibly receive a work permit and also proper notification of an effort to restrict their license privileges. Many may consider this an attempt to give (deadbeats) or obligors a break. I must say, I understand why some may think that, but that is not my intent or reason for supporting this bill. After many discussions in Judiciary meetings, Interim meetings, visits with law enforcement officials and some constituents, this just plain makes common sense to us.

As the law is now and utilized by our child support enforcement officials, we see obligors being arrested for driving under suspension, immediately being remanded into custody, charged with a misdemeanor, and waiting in a jail cell to see a judge--thus taxing our law enforcement officers, our Judicial system, our jail personnel and consequently our citizens with the expenses associated. Then on top of the charges the obligor needs to address, there are the potential fines, courts costs, fees and damages to their driving record as well. The obligor may then lose the very job that would allow them to pay some of what they owe in back child support. Hence, we have just compounded the problem we are trying to correct. Now, no one believes the obligor is innocent and shouldn't face consequences for not upholding their court-ordered responsibility.

But, when I'm asked whether what we as a state are doing is the smartest direction to hold obligors accountable, I have to admit I just don't think so.

Presently, we are actually giving child support enforcement officials more authority than our parole and probation officers by allowing them the ability to decide to have someone's license suspended with little due process in some cases. Hence, having the obligor arrested if they violate suspension, even if the obligor hasn't been made aware that these privileges were suspended.

Other questions may exist in regards to this as well. Is it fair to do this to those who actually have a valid license? Is it fair to those who carry a commercial driver's license and may make their living with it?

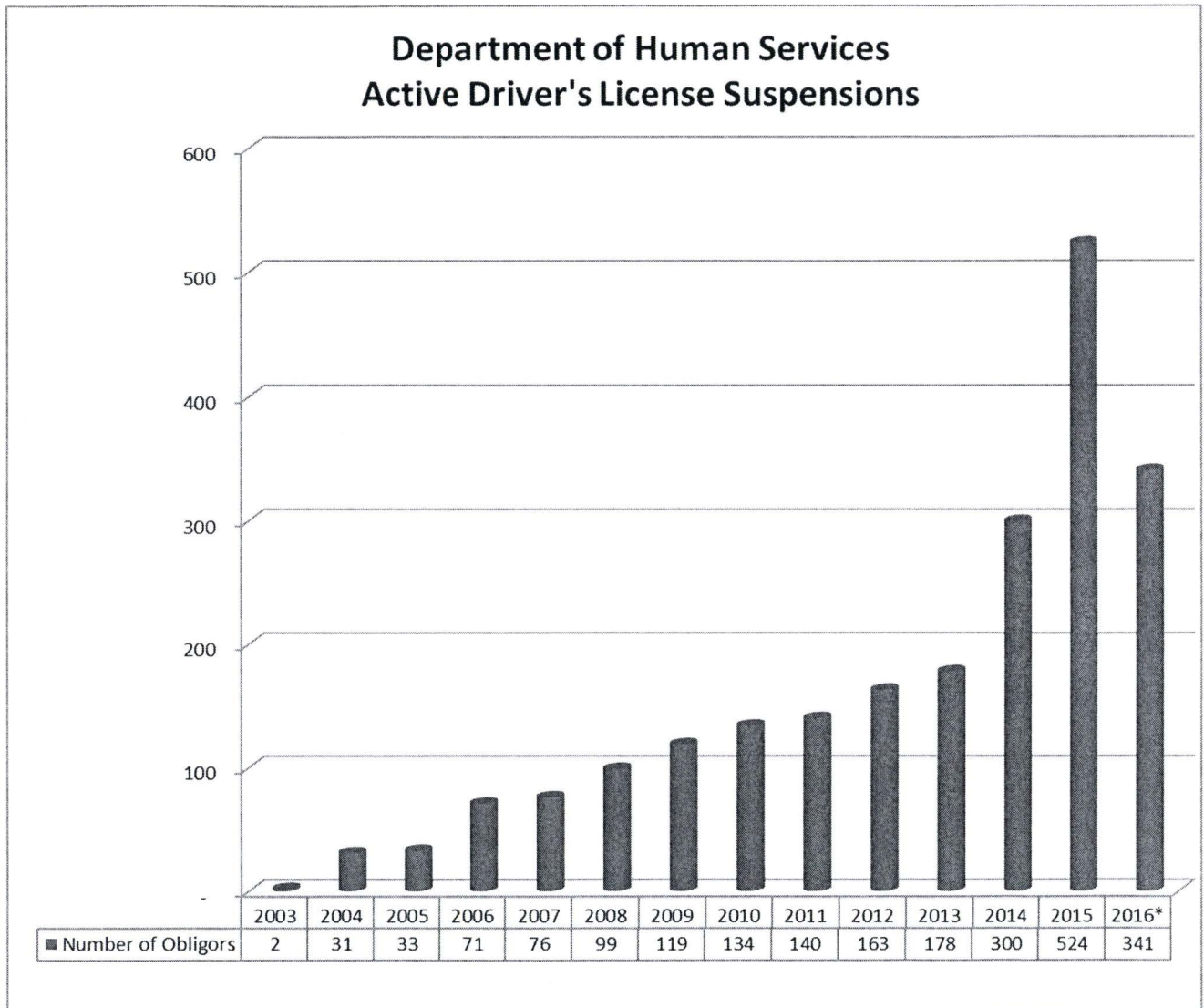
In the end, I think this bill still allows for using one's driving privileges as a deterrent from not meeting their obligations, but at the same time, uses some common sense in this effort to collect back child support.

As I stated, this will reduce law enforcement costs, court costs and our overcrowded jails, freeing them up for more important needs.

Thank you for your consideration. I stand for any questions you may have.

SB 2281
#2
4/23

There can be multiple suspensions and payment plans during the life of a child support case, and a number of licenses or registrations can be suspended in each administrative action. There are currently 2,211 driver's license suspensions in place.



To whom it may concern:

My name is Anthony Edland and I would like to share with you an experience I encountered. I am a divorced 35-year-old father who works full time to support my 2 daughters. My ex-wife and I get along well as we both are willing to put our personal differences aside in the best interests of our children. Even though I am a non-custodial parent of my children, I am very active in their lives. I always attend parent teacher conferences, sporting events, and any school or music programs. Not even a twelve-hour round trip car ride could keep me from attending a 10 minute gymnastics routine when they moved to Williston while I lived in Jamestown. All of this is to say that my kids are my world, they mean everything to me, I work hard to support them and am glad to do it. I am not a dead-beat dad, which is why it was so disheartening when the state treated me as such.

The very first day my divorce was finalized, and my employer was first notified to withhold child support, I owed and was paying interest on more than five thousand dollars. I started out in that hole because my child support amount began accruing the day I was served divorce papers, and it took almost eight months for the divorce to be finalized. Being that I do not hold a college degree much of my work comes by way of manual labor. Most of that kind of work in North Dakota is seasonal and requires you to drive company vehicles from jobsite to jobsite. These types of jobs also do not pay as well as most professional jobs so it is not easy to dig yourself out of that child support hole.

I went to work at it because it was my responsibility, and after two years I had it paid down to two thousand dollars. That winter I got laid off from work and wasn't able to make a payment for a month and a half, but got back to work after that. I thought everything was going along well until I got pulled over by a police officer one day. Much to my surprise that police stop ended in me being handcuffed and taken to jail for what I was told was driving while my license was suspended. I found out my license was suspended after going more than a month without making a child support payment, and the total amount I owed exceeded more than three months of payments. This began a nightmare of attempting to get my license reinstated, the details of which are almost unbelievable, but it was a two-year process.

In the end, my punishment for missing a month and a half of payments is as follows: two driving under suspension convictions, ten days in jail, \$1200 in court fines, \$300 in DMV fees, having to borrow \$2000 to pay off all back child support so they would remove the suspension, three jobs-one of which was a \$60,000 a year job in Dickinson, the embarrassment of having to be bailed out of jail, \$1500 in lost wages, two years without a driver's license, and most importantly - missed time with my kids because I couldn't get them without a license. I absolutely do not view this as justice. I believe every parent has an obligation to support their children, but just because someone falls on hard times doesn't mean they don't care about their kids or doesn't want to support them. Not supporting one's children should not go unpunished, but taking away their right to work seems counterproductive. When you take away the license of someone like me, you are also very likely taking away his or her job.

Today, I am fully paid, but due to this burdensome system that does not offer justice I still have a suspended license until April. This is not right. I am asking for a do-pass recommendation of this bill and hope that you will take into account the struggle that my family and I have gone through.

Thank you for your time,
Anthony Edland

SB 2281
Attach #4

1/23

(16) AUTHORITY TO WITHHOLD OR SUSPEND LICENSES.—

Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

SB 2281
Attache #5
1/23

**Department of Human Services
Interim Judiciary Committee
Senator David Hogue, Chairman
June 6, 2016**

Chairman Hogue, members of the Interim Judiciary Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services. I appear before you to provide a report on suspension of a driver's license for nonpayment of child support.

Background. States are required by federal law to have driver's license suspension processes for nonpayment of child support. Prior to 2003, suspensions were something that courts could order, but it was rarely done and therefore did not deter obligors from becoming delinquent. In 2003, a group of legislators sponsored Senate Bill 2246. The prime sponsor, Senator Tom Fischer, testified:

Right now, license suspension for failing to pay child support is available only as a remedy for contempt and can be easily avoided at the last minute by making one month's payment. Under the proposed bill, an obligor would need to continue making the required monthly payments or else face a license suspension.

Madame chairman, it is important to note that an obligor who pays his or her monthly child support obligation on time has nothing to worry about under this bill. Even if an obligor is very delinquent, the obligor can keep his or her license indefinitely as long as the obligor enters into a payment plan with the child support enforcement program. License suspension under this bill will be reserved for obligors who refuse to satisfy their monthly payment obligation under the child support guidelines and a reasonable installment on the outstanding arrears. The "down payment"

2281
#5
1/23

feature of the payment plan will help ensure this process is a meaningful tool for increased collections and not just a revolving door.

Attached is a copy of the current state law.

With regard to suspension of a driver's license, the key questions for the committee may be "when does Child Support take the license away" and "how does an obligor get it back?" Child Support uses this tool carefully and selectively; otherwise, making it harder for an obligor to get to work would be counter-productive. Under the law, a license can be suspended if the obligor is at least two months or \$2,000 behind, whichever is less. In practice, it would be highly unusual for child support to suspend a license if an obligor is making regular payments, even if he or she owes past-due child support.

Notice. The goal of the license suspension process is to discourage obligors from missing a payment and to encourage obligors to avoid suspension by working and paying current support on a regular basis plus an affordable amount toward the past-due child support. For this reason, a delinquent obligor receives written notice 30 days before a license is suspended. During that time, the obligor has a chance to pay the arrears in full (which happens on occasion), contact Child Support and sign a payment plan, or seek review by a court. If the obligor does not respond, or if the obligor signs and later breaches a payment plan, the license is suspended and the obligor is notified of the suspension. Each payment plan includes a notice to the obligor that a breach of the plan will lead to immediate suspension, which is an important motivation for obligors to remain in compliance with the plan. For the duration of a payment plan,

the accrual of interest is suspended, which also provides a motivation for obligors to remain in compliance with the plan.

Payment plan amounts. An obligor can avoid license suspension or get a suspended license reinstated at any time by negotiating a payment plan with Child Support. The law provides for a down payment to motivate the obligor to comply with the plan on an ongoing basis. We recognize that many obligors are unable to immediately satisfy their arrears. As a result, while we prefer to collect the full balance immediately, we generally tie driver's license suspension to our efforts to negotiate a payment plan that will enable the parent to pay off all outstanding balances in installments over a maximum 10-year period.

The amount that an obligor is required to pay each month to comply with a payment plan varies depending on the obligor's current circumstances and is negotiated on a case-by-case basis. The law requires Child Support to consider the amount that the obligor is required to pay each month by the court for purposes of income withholding. In other words, if the court order requires payment of \$200 in current support each month and 20% or \$40 per month towards the arrears, we will not agree to a payment plan of less than \$240. To do so would undermine the court. There are times when an obligor's current court order is higher than he or she can pay, and we will review those obligations, upon request, if they are at least 36 months old or meet other criteria for an earlier review.

Temporary licenses. The law gives Child Support the authority to approve temporary restricted licenses so an obligor is able to drive to work, but the law provides so much flexibility to Child Support in

2281
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negotiating payment plans with cooperative obligors that we rarely need to authorize a temporary restricted license. We are almost always able to refrain from suspending a license or reinstate any suspended license without restrictions. This allows the obligor to return to normal activities with a minimum amount of government oversight.

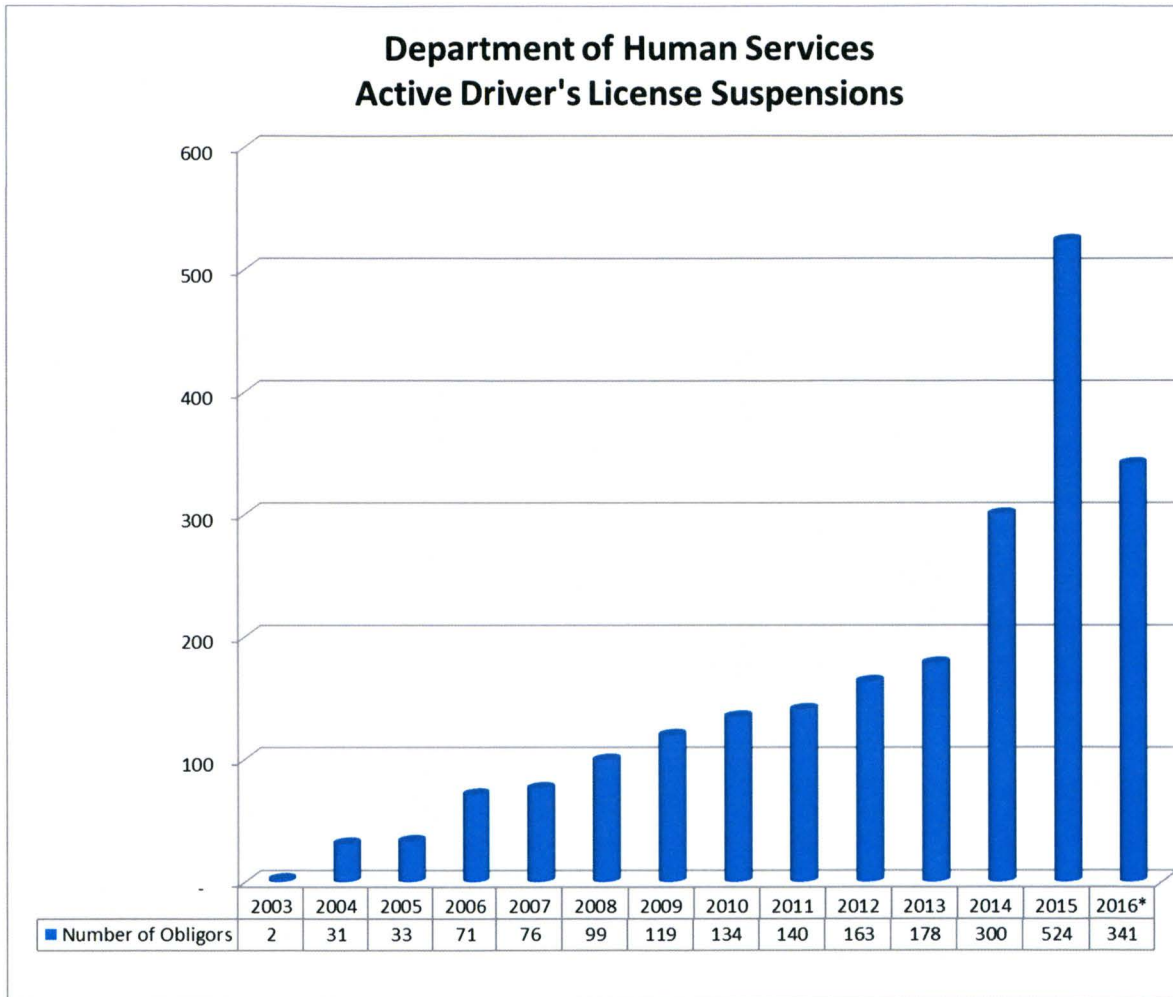
Down payments. In negotiating payment plans, the law requires an immediate payment of 5% of the arrears balance or \$500, whichever is greater, but also gives us some discretion to waive or reduce the down payment in certain circumstances. We do not insist on full satisfaction of the arrears unless for some reason the obligor can afford to pay it, such as if we have identified a savings account containing sufficient funds. As a general rule, we are more willing to negotiate the down payment for low income obligors and those who are entering their first payment plan. If need be, we will spread out the down payment over the first few months of the payment plan.

One of the reasons the Department can be flexible in entering a payment plan is because any breach of the plan is easy to identify since all payments are required to be paid through our State Disbursement Unit.

The potential for a down payment in future payment plans, even if waived for the first plan, is important for motivating obligors to comply with a payment plan. If there was no down payment, or if an obligor could regain a suspended license after skipping a month or two simply by resuming payments without signing a new payment plan, the deterrent effect of the process is significantly reduced and the process would become the same "revolving door" that the Legislature intended to avoid.

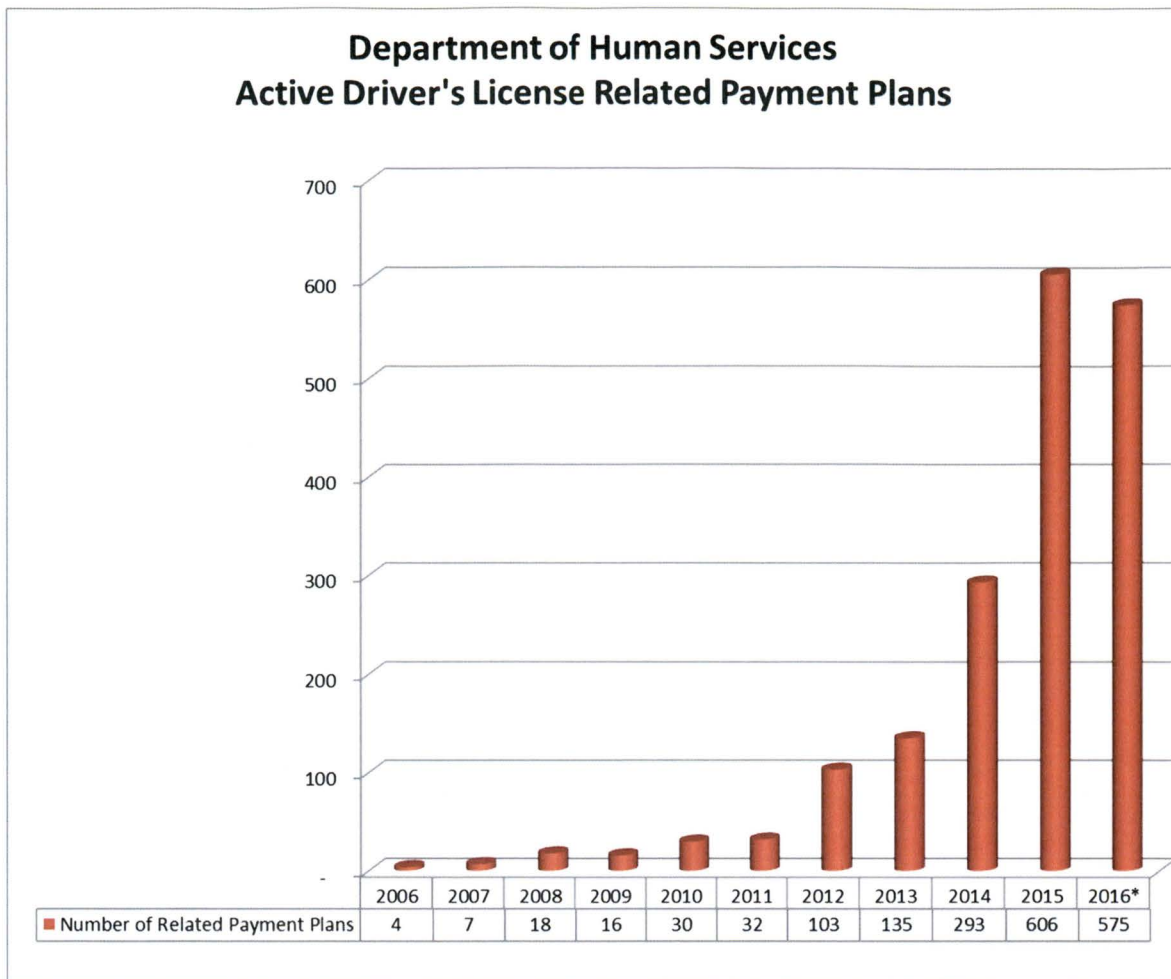
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Duration. There can be multiple suspensions and payment plans during the life of a child support case, and a number of licenses or registrations can be suspended in each administrative action. There are currently 2,211 driver's license suspensions in place.



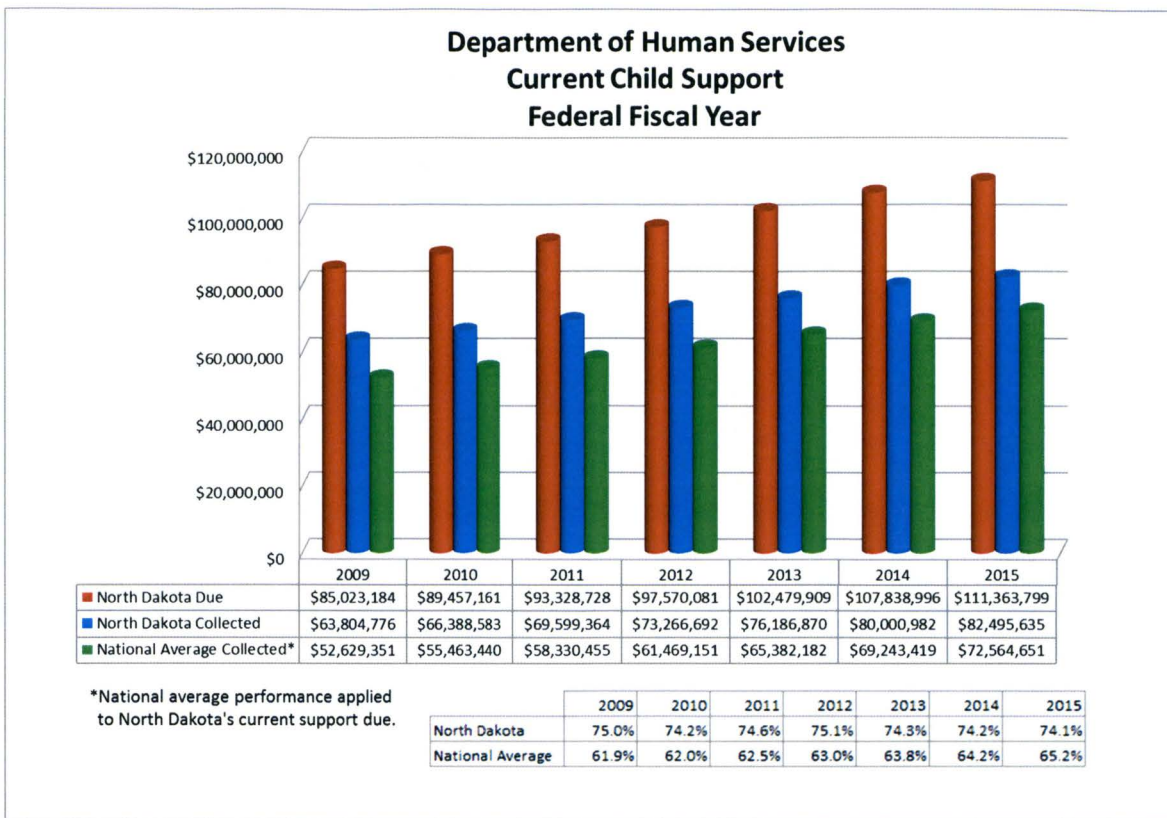
The goal of the license suspension process is to motivate obligors to avoid suspension or obtain license reinstatement by entering into a payment plan (assuming payment of the full arrears is not feasible). Currently, there are 1,819 payment plans in effect.

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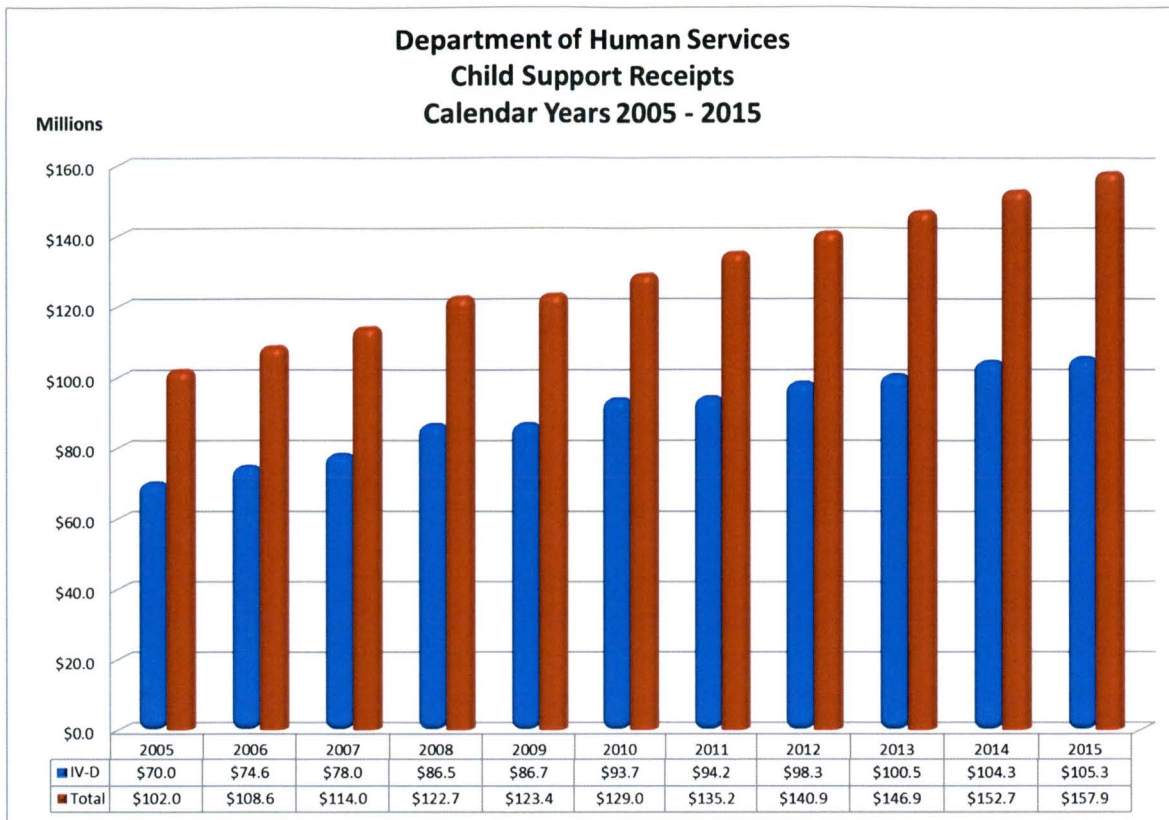
Effectiveness. As a tool to motivate obligors to cooperate with Child Support, including making payments and reporting new employment, the effectiveness of driver's license suspension can be measured in several ways. First, in the amount of current support collected in order to avoid suspension, which has increased nicely over the last decade.

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Second, the amount of total collections, including current support and arrears, continues to increase.

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Last, for current payment plans that were originally signed from November 1, 2013, through October 31, 2015 (a total of 405 plans), we compared the number and amount of payments for the six months before and after the plan commenced. For the first six months after each plan became effective, there was an average increase of 54% in the number of months in which there was a collection and an average increase of 58% in total collections. This shows that the driver's license suspension process is very effective, particularly when you consider that this population of obligors includes those from whom it is most difficult to collect child support.

Approach of other rural states. In preparation of this report, I contacted the state child support directors in Wyoming, South Dakota, and Montana to compare the license suspension processes in their states.

Wyoming. Several years ago, Wyoming suspended licenses judicially and not administratively, with similar lack of success as North Dakota prior to our law change in 2003. They used North Dakota's law as a pattern for its own approach in changing the law to authorize administrative suspensions. Similar to our own experience, some obligors in Wyoming are motivated by the potential for license suspension, while others are willing to drive without a license. A significant difference in Wyoming's approach is that they start with a letter to the obligor and then send a notice of intent to suspend with a 65-day period in which the obligor needs to respond to avoid suspension. Wyoming collects 68.2% of current support on time and is ranked #1 overall in the country.

South Dakota. South Dakota suspends licenses administratively and feels its process is effective. As part of their payment plans, South Dakota requires verification that the obligor is employed. As with North Dakota, South Dakota is fairly lenient with a first-time payment plan but applies a "three strikes and you're out" approach to multiple plans where the full arrears balance must be paid in order for a license to be reinstated. A temporary license is available, but only one time and only for six months. If a payment plan is breached, South Dakota sends a notice of nonpayment and if there is no response, sends an additional notice of intent to suspend with a 13-day deadline. South Dakota collects 67.87% of current support on time and is ranked #2 overall in the country.

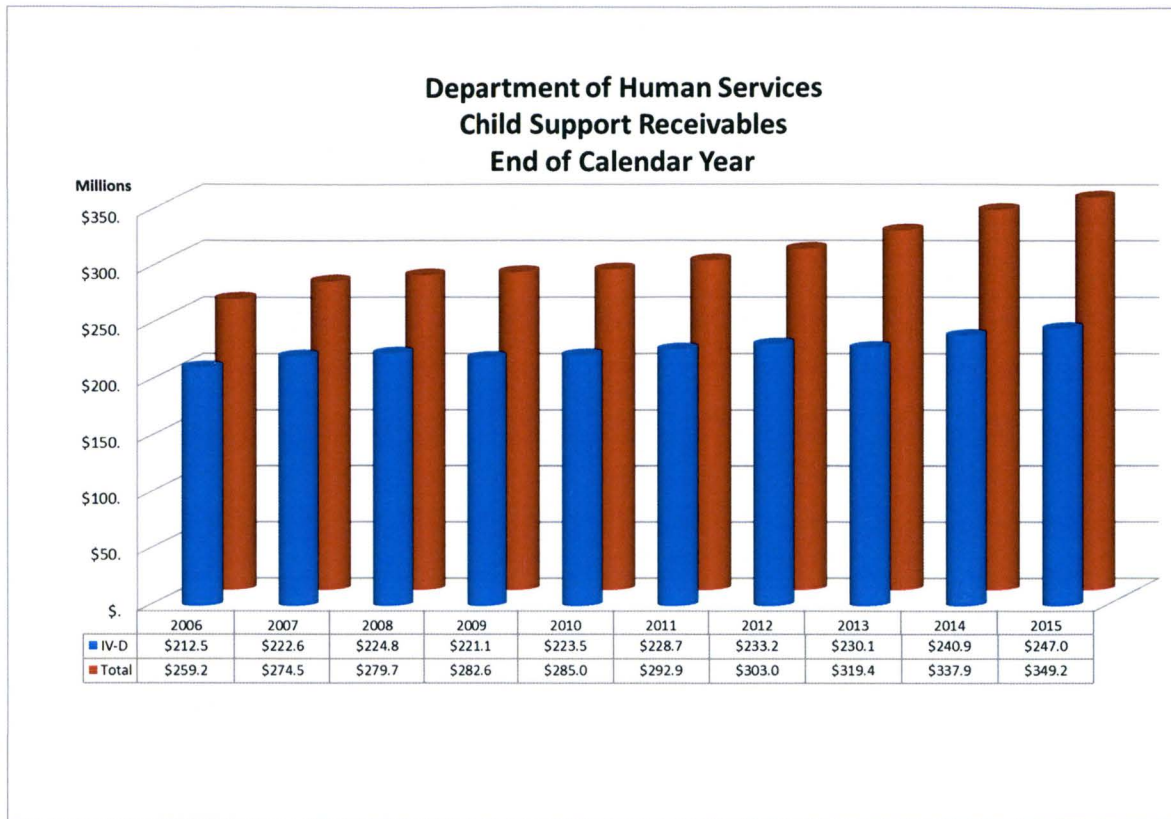
Montana. Montana suspends licenses administratively and feels its process improves total collections. In recognition of the need for

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transportation in rural areas, Montana utilizes the obligor's interest in transportation as a way to attach significance to both the need to pay child support and the need to have a driver's license. As with North Dakota, Montana views license suspension as a great opportunity to open a dialogue with an obligor about complying with the support obligation. There is no temporary license option, which is why Montana "bends over backwards" to get the obligor into a payment plan. The suspension process takes 90 days in Montana, and the threshold for pursuing suspension is six months of arrears. Montana collects 63.5% of current support on time and is ranked #17 overall in the country.

Conclusion. The license suspension process is a proven, effective enforcement technique. It results in improved collections of current support and arrears. However, despite the best efforts of the program, including the selective use of license suspension, the amount of arrears owed in North Dakota continues to grow.

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Upon review of other state laws, we have no suggestions to offer for amending North Dakota's law. There are several areas where North Dakota law differs from other rural states and provides more flexibility to reduce the impact of license suspension on obligors. The key with implementation of the license suspension process is to be firm but fair. With the rising arrears amount and the demonstrated effectiveness of driver's license suspension, the Department would not recommend adding restrictions on the use of license suspension as a collection tool.

Mr. Chairman and members of the committee, this concludes my testimony and I would be glad to try to answer any questions.

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50-09-08.6. Suspension of occupational, professional, recreational, motor vehicle operator, and vehicle licenses and registrations for nonpayment of child support or failure to obey subpoena.

1. As used in this section:
 - a. "License" means:
 - (1) Any certificate, permit, or license issued by an agency of the state or a political subdivision of the state which the obligor is required to obtain prior to engaging in the obligor's occupation or profession;
 - (2) Any certificate, permit, or license issued by an agency of the state which the obligor is required to obtain prior to engaging in a recreational activity; and
 - (3) Any operator's license or vehicle license or registration which the obligor is required to obtain prior to operating or owning a vehicle in this state. As used in this section, "vehicle" includes any motor vehicle as defined in section 39-01-01, aircraft, snowmobile, motorboat, or personal watercraft.
 - b. "Licensee" means a person who has applied for or currently possesses a license.
 - c. "Licensing authority" means an agency of the state or a political subdivision of the state that issues a license, including occupational or professional boards, the game and fish department, and the department of transportation.
 - d. "Restrict", as it relates to the operator's license of an obligor or a person who fails to comply with a subpoena, includes the authority of the state agency to authorize the issuance, upon request for good cause, of a restricted operator's license that is solely for the use of a motor vehicle during the licensee's normal working hours.
2. The state agency, directly or through agents and child support agencies, may withhold, restrict, or suspend one or more licenses issued to:
 - a. A person who has failed, after receiving proper notice, to comply with a subpoena relating to a paternity or child support matter;
 - b. An obligor who is listed on the arrears registry; or
 - c. An obligor who is not in compliance with an existing payment plan that has been negotiated between the obligor and the state agency under this section or in exchange for the state agency refraining from taking an enforcement action against the obligor.
3. Before withholding, restricting, or suspending a license under subdivision a or b of subsection 2, the state agency shall send a notice to the licensee by first-class mail to the licensee's last-known address stating that the licensee has thirty days after the date of the notice to comply with the subpoena, satisfy the arrearage in full, or negotiate a payment plan with the state agency under this section. The notice must further state that

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the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date of the notice.

4. Upon notice to the licensee, the state agency may withhold, restrict, or suspend a license under subdivision c of subsection 2 at any time if the licensee fails to comply with a payment plan negotiated under this section. A copy of the state agency's order to withhold, restrict, or suspend a license must be sent to the licensee by first-class mail to the licensee's last-known address. The order must state that the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date of the order.
5. A request for a hearing under this section must be made to the court that issued or considered the child support order. If a child support order was issued by a court or administrative tribunal in another jurisdiction, the request may be made to any court of this state which has jurisdiction to enforce that order or, if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the licensee.
6. In a contest under this section, the court must affirm the action of the state agency to withhold, restrict, or suspend a license unless it finds that the licensee's delinquency or failure to comply with a subpoena, or an existing payment plan was not willful. Upon a showing by the state agency that the licensee has failed to comply with a subpoena, is listed on the arrears registry, or is not in compliance with an existing payment plan between the licensee and the state agency under this section, the licensee has the burden of proving that the delinquency or failure to comply was not willful.
7. The state agency shall notify the appropriate licensing authority that the state agency has withheld, restricted, or suspended a license under this section. A license that is withheld, restricted, or suspended by the state agency under this section may be reinstated only by the state agency after the licensee complies with the subpoena, satisfies the arrearage in full, or enters into a payment plan with the state agency under this section.
8. An obligor and the state agency may enter into a payment plan under which the obligor agrees to satisfy the obligor's total child support obligation, including arrears, within a period not to exceed ten years. A payment plan under this section must require the obligor to make an immediate payment to the state disbursement unit in an amount equal to five percent of the total arrears owed by the obligor or five hundred dollars, whichever is greater. The state agency may waive or reduce the immediate payment that is due under a payment plan if the obligor's current or most recent monthly support obligation is less than five hundred dollars. The state agency may require that a payment plan under this section include satisfaction of all court-ordered child support

obligations of the obligor. The obligor's current or most recent monthly support obligation under section 14-09-09.30 must be considered when determining the duration of a payment plan under this section and the payments due under the agreement. A payment plan under this section is not a modification of any child support obligation of the obligor and does not bar judicial review of a child support order under section 14-09-08.4 or other enforcement actions by the obligee or the state agency.

9. An action of the state agency to withhold, restrict, or suspend a license under this section may not be appealed to the state agency or to the licensing authority, including an appeal under chapter 28-32. Section 50-09-14 does not apply to actions taken by the state agency under this section.
10. Except for statistical purposes, an entry on the driving record or abstract of a restriction or suspension under this section after the restriction or suspension ceases may not be available to the public other than by order of a court of competent jurisdiction.
11. A licensing authority and any person acting on its behalf is not liable for any actions taken to withhold, restrict, or suspend a license under this section. This section does not limit the ability of a licensing authority to withhold, restrict, or suspend a license on any other grounds authorized by law.

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ND CHILD SUPPORT DIVISION
CENTURY CENTER BUILDING
PO BOX 7190
BISMARCK ND 58507-7190

TELEPHONE: (701) 328-6085
TTY: (800) 366-6888

DECEMBER 1, 2012

NOTICE OF INTENT TO WITHHOLD, RESTRICT, OR SUSPEND LICENSE OR
REGISTRATION - PAST-DUE SUPPORT

JOHN APPLESEED

RE: JOHN APPLESEED
SOCIAL SECURITY NUMBER: 254-52-4242
FACSES CASE NUMBER: 14502

STATE LAW (NORTH DAKOTA CENTURY CODE SECTION 50-09-08.6) AUTHORIZES NORTH DAKOTA'S CHILD SUPPORT ENFORCEMENT PROGRAM TO WITHHOLD, RESTRICT, OR SUSPEND CERTAIN LICENSES AND REGISTRATIONS OF OBLIGORS WHO HAVE FAILED TO PAY THEIR CHILD SUPPORT. THE LICENSES AND REGISTRATIONS THAT ARE AFFECTED BY THIS LAW INCLUDE OCCUPATIONAL AND PROFESSIONAL LICENSES, RECREATIONAL LICENSES, MOTOR VEHICLE OPERATOR'S LICENSES, VEHICLE LICENSES, AND VEHICLE REGISTRATIONS.

THESE LICENSES AND REGISTRATIONS ARE AT RISK IF THE OBLIGOR OWES PAST-DUE CHILD SUPPORT IN AN AMOUNT GREATER THAN TWO TIMES HIS OR HER CURRENT OR MOST RECENT MONTHLY SUPPORT OBLIGATION OR \$2,000, WHICHEVER IS LESS.

ACCORDING TO OUR RECORDS, YOU HAVE ONE OR MORE OF THE LICENSES AND REGISTRATIONS LISTED ABOVE AND YOU OWE PAST-DUE CHILD SUPPORT IN THE AMOUNT OF \$49,415.86 AS OF NOVEMBER 30, 2012. SINCE THIS AMOUNT IS GREATER THAN TWO TIMES YOUR CURRENT OR MOST RECENT MONTHLY SUPPORT OBLIGATION OR GREATER THAN \$2,000, THIS IS YOUR NOTICE THAT THE FOLLOWING LICENSES AND REGISTRATIONS WILL BE WITHHELD, RESTRICTED, OR SUSPENDED:

_____ THE HUNTING LICENSE(S) YOU WERE ISSUED BY THE NORTH DAKOTA GAME AND FISH DEPARTMENT AND ANY OTHER RECREATIONAL LICENSE(S) YOU CURRENTLY HOLD OR WILL APPLY FOR IN THE FUTURE.

 X YOUR DRIVER'S LICENSE AND ANY OTHER MOTOR VEHICLE OPERATOR'S LICENSE(S) YOU CURRENTLY HOLD OR WILL APPLY FOR IN THE FUTURE.

_____ THE VEHICLE REGISTRATIONS ISSUED IN YOUR NAME, INCLUDING JOINT REGISTRATIONS, AND ANY VEHICLE REGISTRATIONS YOU MAY APPLY FOR IN THE FUTURE. "VEHICLES" INCLUDE CARS, TRUCKS, MOTORCYCLES, SNOWMOBILES, MOTORBOATS, AIRCRAFT, AND PERSONAL WATERCRAFT.

_____ YOUR PROFESSIONAL OR OCCUPATIONAL LICENSE ISSUED BY THE AND ANY OTHER PROFESSIONAL OR OCCUPATIONAL LICENSES YOU CURRENTLY HOLD OR WILL APPLY FOR IN THE FUTURE.

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TO AVOID THIS ACTION, YOU MUST, WITHIN THIRTY (30) DAYS OF THE DATE OF THIS NOTICE, PAY YOUR PAST-DUE CHILD SUPPORT IN FULL OR NEGOTIATE A PAYMENT PLAN WITH THE CHILD SUPPORT ENFORCEMENT PROGRAM. CHILD SUPPORT PAYMENTS MUST BE MADE TO THE STATE DISBURSEMENT UNIT, P.O. BOX 7280, BISMARCK, ND 58507-7280; THEY CANNOT BE MADE DIRECTLY TO THE CUSTODIAL PARENT. TO NEGOTIATE A PAYMENT PLAN, YOU MUST CONTACT THE ND CHILD SUPPORT DIVISION AT THE ADDRESS OR TELEPHONE NUMBER AT THE TOP OF THIS NOTICE.

IF YOU WISH TO CONTEST THE WITHHOLDING, RESTRICTION, OR SUSPENSION OF YOUR LICENSE(S) AND REGISTRATION(S), YOU MUST, WITHIN TEN (10) DAYS OF THE DATE OF THIS NOTICE, MAKE A WRITTEN REQUEST FOR A COURT HEARING. YOU MUST SEND OR DELIVER YOUR WRITTEN REQUEST FOR A COURT HEARING TO THE NORTH DAKOTA COURT THAT ISSUED OR CONSIDERED YOUR CHILD SUPPORT ORDER. IF YOUR CHILD SUPPORT ORDER WAS NOT ISSUED BY A NORTH DAKOTA COURT, YOUR WRITTEN REQUEST FOR A COURT HEARING IS TO BE MADE TO ANY NORTH DAKOTA COURT THAT HAS JURISDICTION TO ENFORCE YOUR CHILD SUPPORT ORDER OR, IF NO NORTH DAKOTA COURT HAS JURISDICTION TO ENFORCE YOUR CHILD SUPPORT ORDER, TO ANY NORTH DAKOTA COURT THAT HAS JURISDICTION OVER YOU.

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR ABOUT THE LICENSE SUSPENSION PROCESS IN GENERAL, YOU MAY CONTACT THE ND CHILD SUPPORT DIVISION AT THE ADDRESS OR TELEPHONE NUMBER AT THE TOP OF THIS NOTICE.

LA BRUCKER
PROCESS SUPPORT SPECIALIST

STATE OF NORTH DAKOTA
CHILD SUPPORT PROGRAM
PAYMENT PLAN - PAST-DUE SUPPORT

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RE: JOHN APPLESEED ;
CASE #: 14502

1. I ACKNOWLEDGE I RECEIVED A NOTICE OF INTENT TO WITHHOLD, RESTRICT, OR SUSPEND LICENSE OR REGISTRATION (NOTICE) AND I OWE AT LEAST TWO MONTH'S WORTH OF PAST-DUE CHILD SUPPORT OR \$2,000, WHICHEVER IS LESS. I UNDERSTAND THIS AMOUNT MAY INCLUDE PAST-DUE CHILD SUPPORT I OWE UNDER MORE THAN ONE CHILD SUPPORT ORDER. I FURTHER UNDERSTAND THAT INTEREST MAY BE ACCRUING ON THIS PAST-DUE CHILD SUPPORT.
2. I ACKNOWLEDGE THAT I HAVE OR MAY OBTAIN A LICENSE OR REGISTRATION, AS IDENTIFIED IN THE NOTICE, THAT CAN BE WITHHELD, RESTRICTED, OR SUSPENDED UNDER NORTH DAKOTA CENTURY CODE SECTION 50-09-08.6 BECAUSE OF THE PAST-DUE CHILD SUPPORT THAT I OWE.
3. I ACKNOWLEDGE I OWE CURRENT CHILD SUPPORT IN THE AMOUNT OF \$200.00 PER MONTH. I UNDERSTAND THIS AMOUNT MAY INCLUDE CURRENT CHILD SUPPORT I OWE UNDER MORE THAN ONE CHILD SUPPORT ORDER.
4. IN EXCHANGE FOR THE NORTH DAKOTA CHILD SUPPORT PROGRAM (CHILD SUPPORT) REFRAINING FROM WITHHOLDING, RESTRICTING, OR SUSPENDING THE LICENSES OR REGISTRATIONS IDENTIFIED IN THE NOTICE AND FOR SUSPENDING INTEREST THAT WOULD ACCRUE ON THE PAST-DUE CHILD SUPPORT AFTER THE DATE OF THIS PAYMENT PLAN (PLAN), I WILL COMPLY WITH THIS PLAN, INCLUDING THE FOLLOWING REQUIREMENTS:
 - A. I WILL MAKE AN IMMEDIATE PAYMENT OF \$500.00, WHICH IS DUE WHEN I SIGN THIS PLAN.
 - B. I WILL MAKE ALL CURRENT CHILD SUPPORT PAYMENTS IN FULL AND ON TIME THAT I AM CURRENTLY REQUIRED TO PAY OR WILL BE REQUIRED TO PAY IN THE FUTURE.
 - C. I WILL PAY \$50.00 PER MONTH TOWARDS MY PAST-DUE CHILD SUPPORT BEGINNING DECEMBER 1, 2012.
 - D. I WILL NOTIFY CHILD SUPPORT WITHIN TWO (2) BUSINESS DAYS OF ENTRY OF ANY MODIFIED OBLIGATION SO THAT A CHANGE TO THIS PLAN CAN BE PREPARED.
 - E. BASED ON MY CURRENT CHILD SUPPORT OBLIGATION AND THE AMOUNT OF PAST-DUE CHILD SUPPORT I OWE, THE ANTICIPATED COMPLETION DATE OF THIS PLAN IS DECEMBER 1, 2022. THIS PLAN MAY BE RE-NEGOTIATED IF I EXPERIENCE A SIGNIFICANT CHANGE IN CIRCUMSTANCES THAT IS BEYOND MY CONTROL. I ACKNOWLEDGE THAT THIS PLAN MAY BE REVISED EITHER UPWARD OR DOWNWARD DEPENDING ON THE CHANGE IN CIRCUMSTANCES.
 - F. WHEN I NO LONGER HAVE A CURRENT CHILD SUPPORT OBLIGATION (FOR EXAMPLE, WHEN ALL MY CHILDREN HAVE REACHED AGE 18 AND COMPLETED HIGH SCHOOL), I WILL PAY \$250.00 PER MONTH TOWARDS MY PAST-DUE CHILD SUPPORT.
 - G. ALL PAYMENTS SHALL BE PAID TO THE STATE DISBURSEMENT UNIT, P.O. BOX 7280, BISMARCK, ND 58507-7280, AND NOT TO THE CUSTODIAL PARENT.
5. I HAVE READ AND UNDERSTAND THE RIGHTS AND RESPONSIBILITIES DOCUMENT THAT IS ATTACHED TO THIS PLAN, INCLUDING THE RIGHT TO HIRE AN ATTORNEY BEFORE SIGNING THIS PLAN.
6. I UNDERSTAND I HAVE THE RIGHT TO HAVE A COURT DETERMINE WHETHER MY LICENSE OR REGISTRATION SHOULD BE WITHHELD, RESTRICTED, OR SUSPENDED, AND I EXPRESSLY GIVE UP THAT RIGHT IN EXCHANGE FOR CHILD SUPPORT REFRAINING FROM WITHHOLDING, RESTRICTING, OR SUSPENDING MY LICENSE OR REGISTRATION.

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7. I WILL NOTIFY CHILD SUPPORT WITHIN TWO (2) BUSINESS DAYS OF ANY CHANGE IN MY EMPLOYMENT. THIS NOTIFICATION WILL INCLUDE THE NAMES AND ADDRESSES OF ANY NEW OR ADDITIONAL EMPLOYERS.

8. I ACKNOWLEDGE THAT IF AT ANY TIME I FAIL TO COMPLY WITH ANY PART OF THIS PLAN, THE PLAN WILL IMMEDIATELY TERMINATE AND CHILD SUPPORT IS AUTHORIZED TO ISSUE AN ORDER WITHHOLDING, RESTRICTING, OR SUSPENDING ANY LICENSE OR REGISTRATION THAT I HAVE AT THAT TIME OR MAY OBTAIN IN THE FUTURE AND THAT CHILD SUPPORT MAY ALSO REINSTATE ANY INTEREST THAT WAS SUSPENDED.

9. I UNDERSTAND THAT IF I FULLY COMPLY WITH THIS PLAN FOR AT LEAST ONE (1) YEAR, ANY INTEREST ON PAST-DUE CHILD SUPPORT OWED TO THE STATE OF NORTH DAKOTA, REGARDLESS OF WHEN IT ACCRUED, AND ANY INTEREST ON PAST-DUE CHILD SUPPORT OWED TO THE CUSTODIAL PARENT THAT ACCRUED AFTER JULY 1, 2005, MAY BE WAIVED.

I CERTIFY THAT I HAVE READ ALL OF THIS DOCUMENT AND THAT I UNDERSTAND IT.

DATED THIS _____ DAY OF _____, 20____. _____
OBLIGOR

DATED THIS _____ DAY OF _____, 20____.

ADMINISTRATOR/IV-D ATTORNEY
AUTHORIZED REPRESENTATIVE
ND CHILD SUPPORT DIVISION

STATE OF NORTH DAKOTA
CHILD SUPPORT PROGRAM
PAYMENT PLAN RIGHTS AND RESPONSIBILITIES

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THIS PLAN IS NOT A MODIFICATION OF ANY CHILD SUPPORT OBLIGATION AND DOES NOT PREVENT ANYONE, INCLUDING THE PERSON OR PERSONS TO WHOM CHILD SUPPORT IS OWED AND CHILD SUPPORT, FROM USING OTHER ENFORCEMENT TOOLS TO COLLECT PAST-DUE CHILD SUPPORT FROM THE PERSON WHO OWES THE CHILD SUPPORT (OBLIGOR).

THIS PLAN DOES NOT PREVENT ANYONE, INCLUDING THE OBLIGOR AND CHILD SUPPORT, FROM SEEKING A MODIFICATION OF ANY CHILD SUPPORT OBLIGATION.

ANY LICENSE OR REGISTRATION THAT IS WITHHELD, RESTRICTED, OR SUSPENDED DUE TO THE OBLIGOR'S NONCOMPLIANCE WITH THIS PLAN MAY BE REINSTATED ONLY AFTER THE OBLIGOR PAYS ALL PAST-DUE CHILD SUPPORT IN FULL OR ENTERS INTO A NEW PLAN WITH CHILD SUPPORT. ANY NEW PLAN MUST REQUIRE, AMONG OTHER THINGS, THAT THE OBLIGOR MAKE ANOTHER IMMEDIATE PAYMENT IN AN AMOUNT REPRESENTING FIVE PERCENT OF THE TOTAL PAST-DUE CHILD SUPPORT OR \$500, WHICHEVER IS GREATER.

A PLAN TAKES EFFECT ON THE DATE IT IS SIGNED BY THE OBLIGOR.

A PLAN DOES NOT AUTOMATICALLY CHANGE THE AMOUNT OF FUNDS THAT ARE WITHHELD FROM THE OBLIGOR'S INCOME UNDER AN INCOME WITHHOLDING ORDER. THE OBLIGOR MAY REQUEST THAT THE INCOME WITHHOLDING ORDER BE AMENDED TO WITHHOLD ADDITIONAL PAYMENTS TO MEET THE AMOUNTS SET FORTH IN THE PLAN. ALTERNATIVELY, THROUGH AN AUTHORIZATION FOR ADDITIONAL INCOME WITHHOLDING FOR CHILD SUPPORT, THE OBLIGOR MAY AUTHORIZE THE OBLIGOR'S CURRENT AND SUBSEQUENT EMPLOYERS TO WITHHOLD SUFFICIENT ADDITIONAL FUNDS TO MEET THE AMOUNTS SET FORTH IN THE PLAN. IF THE OBLIGOR DOES NOT REQUEST THAT THE INCOME WITHHOLDING ORDER BE AMENDED OR DOES NOT AUTHORIZE THE WITHHOLDING OF SUFFICIENT ADDITIONAL FUNDS, THE OBLIGOR IS REQUIRED TO SUPPLEMENT THE FUNDS WITHHELD BY THE EMPLOYER AS NEEDED TO COMPLY WITH THIS PLAN BY MAKING ADDITIONAL PAYMENTS DIRECTLY TO THE STATE DISBURSEMENT UNIT. IF THE OBLIGOR IS REQUESTING THAT THE INCOME WITHHOLDING ORDER BE AMENDED, COMPLETE THE FOLLOWING:

I AM REQUESTING THAT ANY CURRENT AND FUTURE INCOME WITHHOLDING ORDERS BE AMENDED TO WITHHOLD ADDITIONAL PAYMENTS TO MEET THE AMOUNTS SET FORTH IN THE PLAN.

DATE _____

OBLIGOR'S SIGNATURE

AN OBLIGOR HAS THE RIGHT TO HIRE AN ATTORNEY BEFORE SIGNING THIS PLAN AND UNDERSTANDS THAT THE ATTORNEY FOR CHILD SUPPORT DOES NOT REPRESENT THE OBLIGOR.

DATED THIS ____ DAY OF _____, 20____.

OBLIGOR

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Summary of Arrears (IV-D)*

12/30/2016

Balance	Number of Obligors	Total Obligors	Total Arrears Balance	Total Arrears Balance	Average Arrears Balance
Up to \$500	2,094	11.55%	\$ 400,427.50	0.15%	\$ 191.23
\$501 - \$1,000	1,033	5.70%	\$ 761,841.21	0.29%	\$ 737.50
\$1,001 - \$2,000	1,384	7.63%	\$ 2,056,930.90	0.78%	\$ 1,486.22
\$2,001 - \$5,000	2,945	16.24%	\$ 9,908,980.70	3.75%	\$ 3,364.68
\$5,001 - \$10,000	2,906	16.02%	\$ 21,230,605.68	8.03%	\$ 7,305.78
\$10,001 - \$25,000	4,316	23.80%	\$ 70,330,516.30	26.59%	\$ 16,295.30
\$25,001 - \$50,000	2,456	13.54%	\$ 85,945,152.34	32.49%	\$ 34,993.95
\$50,001 - \$100,000	886	4.89%	\$ 58,706,045.92	22.19%	\$ 66,259.65
More Than \$100,000	115	0.63%	\$ 15,195,652.40	5.74%	\$ 132,136.11
Total	18,135	100.00%	\$ 264,536,152.95	100.00%	\$ 14,587.05

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be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.

2. The information filed under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

SECTION 12. AMENDMENT. Section 50-09-06.1 of the North Dakota Century Code is amended and reenacted as follows:

50-09-06.1. Assignment of support rights.

An application under this chapter is deemed to create and effect an assignment of all rights to support, which a family member or foster child may have or come to have, to the state agency. The assignment:

1. Is effective as to all current ~~and accrued~~ support obligations and periods of eligibility;
2. Is effective as to all accrued support obligations with respect to a foster care child;
3. Is limited to the total cost of benefits provided to the family or foster child;
- ~~3.4.~~ Terminates when eligibility ceases, except with respect to any support obligation unpaid at that time; and
- ~~4.5.~~ Is not effective as to any child subject to a benefit cap imposed under section 50-09-29.

SECTION 13. AMENDMENT. Section 73 of chapter 152 of the 2009 Session Laws is amended and reenacted as follows:

SECTION 73. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the date ~~the department of human services certifies to the legislative council that the Hague convention on the international recovery of child support and other forms of family maintenance is ratified and that the United States deposited its instrument of ratification July 1, 2015.~~

SECTION 14. REPEAL. Section 14-09-08.8 of the North Dakota Century Code is repealed.

SECTION 15. DEPARTMENT OF HUMAN SERVICES REPORT TO LEGISLATIVE MANAGEMENT. The department of human services shall provide a report to the legislative management before July 1, 2016, regarding the number of revoked obligor driver's licenses, the duration and effectiveness of revocations, including a comparison of the state's driver's license revocation with other rural states; and shall present a specific proposal that may limit the use of revocation of driver's licenses as a tool of enforcement.

SECTION 16. EMERGENCY. Section 13 of this Act is declared to be an emergency measure.

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Testimony of Senator John Grabinger
ND Senate Human Services Committee
January 23, 2017

Madame chair and committee members:

I'm Senator John Grabinger and I represent District 12, most of the great city of Jamestown. I come before you today to support SB 2281. This bill is to continue to restrict the driver's license of a person for non-payment of child support, but not suspend it. This would allow the obligor to possibly receive a work permit and also proper notification of an effort to restrict their license privileges. Many may consider this an attempt to give (deadbeats) or obligors a break. I must say, I understand why some may think that, but that is not my intent or reason for supporting this bill. After many discussions in Judiciary meetings, Interim meetings, visits with law enforcement officials and some constituents, this just plain makes common sense to us.

As the law is now and utilized by our child support enforcement officials, we see obligors being arrested for driving under suspension, immediately being remanded into custody, charged with a misdemeanor, and waiting in a jail cell to see a judge--thus taxing our law enforcement officers, our Judicial system, our jail personnel and consequently our citizens with the expenses associated. Then on top of the charges the obligor needs to address, there are the potential fines, courts costs, fees and damages to their driving record as well. The obligor may then lose the very job that would allow them to pay some of what they owe in back child support. Hence, we have just compounded the problem we are trying to correct. Now, no one believes the obligor is innocent and shouldn't face consequences for not upholding their court-ordered responsibility.

But, when I'm asked whether what we as a state are doing is the smartest direction to hold obligors accountable, I have to admit I just don't think so.

Presently, we are actually giving child support enforcement officials more authority than our parole and probation officers by allowing them the ability to decide to have someone's license suspended with little due process in some cases. Hence, having the obligor arrested if they violate suspension, even if the obligor hasn't been made aware that these privileges were suspended.

Other questions may exist in regards to this as well. Is it fair to do this to those who actually have a valid license? Is it fair to those who carry a commercial driver's license and may make their living with it?

In the end, I think this bill still allows for using one's driving privileges as a deterrent from not meeting their obligations, but at the same time, uses some common sense in this effort to collect back child support.

As I stated, this will reduce law enforcement costs, court costs and our overcrowded jails, freeing them up for more important needs.

Thank you for your consideration. I stand for any questions you may have.

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Attache #1
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Prepared by the North Dakota
Department of Human Services
For Senator Hogue
02/02/2017

PROPOSED AMENDMENT TO SENATE Bill NO. 2281

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subsection to section 50-09-08.6 of the North Dakota Century Code relating to notice of the opportunity to obtain a restricted motor vehicle operator license if a motor vehicle operator license has been suspended for nonpayment of child support.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-09-08.6 of the North Dakota Century Code is created and enacted as follows:

The state agency may not suspend a motor vehicle operator license without providing written notice to the licensee of how the licensee may obtain a restricted operator's license under this section for use of a motor vehicle during the licensee's normal working hours."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2281

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "14-08.1-07" insert "and 50-09-08.6"

Page 2, after line 2, insert:

"SECTION 2. AMENDMENT. Section 50-09-08.6 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08.6. Suspension or restriction of occupational, professional, recreational, motor vehicle operator, and vehicle licenses and registrations for nonpayment of child support or failure to obey subpoena.

1. As used in this section:
 - a. "License" means:
 - (1) Any certificate, permit, or license issued by an agency of the state or a political subdivision of the state which the obligor is required to obtain prior to engaging in the obligor's occupation or profession;
 - (2) Any certificate, permit, or license issued by an agency of the state which the obligor is required to obtain prior to engaging in a recreational activity; and
 - (3) Any operator's license or vehicle license or registration which the obligor is required to obtain prior to operating or owning a vehicle in this state. As used in this section, "vehicle" includes any motor vehicle as defined in section 39-01-01, aircraft, snowmobile, motorboat, or personal watercraft.
 - b. "Licensee" means a person who has applied for or currently possesses a license.
 - c. "Licensing authority" means an agency of the state or a political subdivision of the state that issues a license, including occupational or professional boards, the game and fish department, and the department of transportation.
 - d. "Restrict", as it relates to the operator's license of an obligor or a person who fails to comply with a subpoena, includes the authority of the state agency to authorize the issuance, upon request for good cause, of a restricted operator's license that is solely for the use of a motor vehicle during the licensee's normal working hours.
2. The state agency, directly or through agents and child support agencies, may restrict a motor vehicle operator's license and may withhold, restrict, or suspend one or more licenses of any other type issued to:

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- a. A person who has failed, after receiving proper notice, to comply with a subpoena relating to a paternity or child support matter;
 - b. An obligor who is listed on the arrears registry; or
 - c. An obligor who is not in compliance with an existing payment plan that has been negotiated between the obligor and the state agency under this section or in exchange for the state agency refraining from taking an enforcement action against the obligor.
3. Before restricting a motor vehicle operator's license under subdivision a or b of subsection 2, the state agency shall provide the obligor with actual notice stating the licensee has thirty days after receiving the notice to comply with the subpoena, satisfy the arrearage in full, or negotiate a payment plan with the state agency under this section. Before withholding, restricting, or suspending ~~any~~ other license under subdivision a or b of subsection 2, the state agency shall send a notice to the licensee by first-class mail to the licensee's last-known address stating that the licensee has thirty days after the date of the notice to comply with the subpoena, satisfy the arrearage in full, or negotiate a payment plan with the state agency under this section. The notice must further state that the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date actual notice was received in relation to a motor vehicle operator's license or within ten days of the date of the notice sent by first-class mail in relation to any other license.
4. Upon notice to the licensee, the state agency may restrict a motor vehicle operator's license and withhold, restrict, or suspend ~~any~~ other license under subdivision c of subsection 2 at any time if the licensee fails to comply with a payment plan negotiated under this section. The state agency must provide a motor vehicle operator licensee with at least two weeks actual notice of the impending order for restriction and the notice must state the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date the impending order is scheduled to go into effect. A copy of the state agency's order to withhold, restrict, or suspend ~~any~~ other license must be sent to the licensee by first-class mail to the licensee's last-known address. The order must state that the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date of the order.
5. A request for a hearing under this section must be made to the court that issued or considered the child support order. If a child support order was issued by a court or administrative tribunal in another jurisdiction, the request may be made to any court of this state which has jurisdiction to enforce that order or, if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the licensee.
6. In a contest under this section, the court must affirm the action of the state agency to withhold, restrict, or suspend a license unless it finds that the licensee's delinquency or failure to comply with a subpoena, or an existing payment plan was not willful. Upon a showing by the state agency that the licensee has failed to comply with a subpoena, is listed on the arrears registry, or is not in compliance with an existing payment plan between the

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licensee and the state agency under this section, the licensee has the burden of proving that the delinquency or failure to comply was not willful.

7. The state agency shall notify the appropriate licensing authority that the state agency has withheld, restricted, or suspended a license under this section. A license that is withheld, restricted, or suspended by the state agency under this section may be reinstated only by the state agency after the licensee complies with the subpoena, satisfies the arrearage in full, or enters into a payment plan with the state agency under this section.
8. An obligor and the state agency may enter into a payment plan under which the obligor agrees to satisfy the obligor's total child support obligation, including arrears, within a period not to exceed ten years. A payment plan under this section must require the obligor to make an immediate payment to the state disbursement unit in an amount equal to five percent of the total arrears owed by the obligor or five hundred dollars, whichever is greater. The state agency may waive or reduce the immediate payment that is due under a payment plan if the obligor's current or most recent monthly support obligation is less than five hundred dollars. The state agency may require that a payment plan under this section include satisfaction of all court-ordered child support obligations of the obligor. The obligor's current or most recent monthly support obligation under section 14-09-09.30 must be considered when determining the duration of a payment plan under this section and the payments due under the agreement. A payment plan under this section is not a modification of any child support obligation of the obligor and does not bar judicial review of a child support order under section 14-09-08.4 or other enforcement actions by the obligee or the state agency.
9. An action of the state agency to withhold, restrict, or suspend a license under this section may not be appealed to the state agency or to the licensing authority, including an appeal under chapter 28-32. Section 50-09-14 does not apply to actions taken by the state agency under this section.
10. Except for statistical purposes, an entry on the driving record or abstract of a restriction or suspension under this section after the restriction or suspension ceases may not be available to the public other than by order of a court of competent jurisdiction.
11. A licensing authority and any person acting on its behalf is not liable for any actions taken to withhold, restrict, or suspend a license under this section. This section does not limit the ability of a licensing authority to withhold, restrict, or suspend a license on any other grounds authorized by law."

Renumber accordingly

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Testimony
Engrossed Senate Bill 2281 – Department Of Human Services
House Transportation Committee
Representative Dan Ruby, Chairman
March 3, 2017

Chairman Ruby, members of the House Transportation Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Child Support). I am here to provide background on the license suspension process that would be changed by Engrossed Senate Bill 2281.

States are required by federal law to have driver's license suspension processes for overdue child support. With regard to suspension of a driver's license, the key questions for the committee may be "when does Child Support take the license away?" and "how does a parent get the license back?" Child Support uses this tool carefully and selectively; otherwise, making it harder for a parent to get to work would be counter-productive.

The goals of the license suspension process are to discourage parents from missing a payment and to encourage parents to avoid suspension by working and paying current support on a regular basis plus an affordable amount toward the overdue child support. For this reason, a delinquent parent receives written notice 30 days before a license is suspended. During that time, the parent has a chance to pay the arrears in full (which happens on occasion), contact Child Support and sign a payment plan, or seek review by a court. If the parent does not respond, or if the parent signs and later breaches a payment plan, the license is suspended and the parent is notified of the suspension. Each payment plan includes a notice to the parent that a breach of the plan will lead to immediate

suspension, which is an important motivation for parents to remain in compliance with the plan. For the duration of a payment plan, the accrual of interest is suspended, which also provides a motivation for parents to remain in compliance with the plan.

As amended in 2009 at the recommendation of a legislative interim committee, the law gives Child Support the authority to approve temporary restricted licenses so the parent is able to drive to work. We rarely need to authorize a temporary restricted license; the law provides so much flexibility to Child Support in negotiating payment plans with cooperative parents that we are almost always able to refrain from suspending a license or to reinstate a suspended license without restrictions. This allows the parent to return to normal activities with a minimum amount of government oversight. However, for those who have a job but cannot get their license reinstated, Engrossed Senate Bill 2281 will ensure that the parent knows how to request a temporary restricted license.

In response to the Senate adopting Engrossed Senate Bill 2281, Child Support has already begun changing the suspension form to include the additional notice that would be required under the bill. The Department is testifying neutrally on the bill because this notice is helpful for the parents we are trying to work with, and we plan to add the notice to the suspension form regardless of whether Engrossed Senate Bill 2281 becomes law.

Mr. Chairman and members of the committee, this concludes my testimony on Engrossed Senate Bill 2281, and I would be glad to answer any questions the committee may have.