

**Testimony
Department Of Human Services
Judicial Process Committee
Representative Shirley Meyer, Chairman
February 10, 2010**

Chairman Meyer, members of the Judicial Process Committee, I am Mike Schwindt, Director of the Child Support Enforcement (CSE) program in the Department of Human Services. I am here to provide information about the fees we recently were required to begin collecting, including how other states are charging fees, and recommendations for changes to the child support laws.

FEES. As part of the 2005 federal Deficit Reduction Act (DRA), all states were required to charge a \$25 fee on all non-assistance IV-D cases when \$500 had been collected on a case. Since this is a revenue item, the federal government receives 66% of the collections, or \$16.50 each time the threshold is reached, whether we collect the \$25 or not.

In response to the DRA, we asked the 2007 legislature for the authority to impose the fee. As stated in our testimony to the 2007 legislature, we also offered several alternatives from whom we should collect the fee. The alternatives permitted under the DRA were:

1. Collect the fee from the obligor,
2. Collect the fee from the obligee,
3. Deduct the fee from payments made through the SDU to the obligee, or
4. Pay the fee out of state general funds.

We recommended the funds be deducted from the payments to custodial parents for a number of reasons. The Legislature agreed with our request, enacting N.D.C.C. section 14-09-09.36. This section of the law also includes a clause that permits a judge to order the fee be collected as past-due support which shifts the burden to the other parent.

This committee has specifically asked about the fee charged in nonIV-D cases. Our 2007 testimony addressed this item as well:

There is also another complication. The federal government shares in the cost of the collection and distribution services provided by the child support enforcement program in IV-D cases. The State pays the full cost of such services in nonIV-D cases. Accordingly, since a fee must be imposed in certain IV-D cases, we believe it would be appropriate to impose a fee in nonIV-D cases as well. However, the fee should be higher since the State is funding the full cost of those services. If a parent wants to take advantage of the lower fee, he or she can apply for IV-D services.

As we completed programming in late 2007, we were instructed to charge the nonIV-D cases \$2.10 for each month in which a collection is made. That is the current fee in place in administrative rule.

As the attached table shows, most responding states followed a similar path. In January I asked the other states to provide their charge information on all accounts, keeping in mind that many states use their State Disbursement Units to process only what the federal government mandates.

In Federal Fiscal Year 2009, we collected and paid out \$34 million on behalf of nonIV-D parents including \$22,480,579 through income withholding. For the same period, we retained \$89,404 in nonIV-D fees from 4,684 people. The maximum fee any one individual paid was \$50.40. In return, we issued roughly 5,850 income withholding orders and related documents, and received about 161,000 payments that were recorded, distributed among cases and paid out to parents. In addition we provide customer service just as we do on the IV-D caseload.

Law change recommendations. You may recall that section 18 in HB 1175 established a Business Relations Task Force. That section said:

The department of human services shall convene a child support enforcement task force to study the interaction of the business community and the child support enforcement program. The task force must include two members of the legislative assembly appointed by the chairman of the legislative council. The department shall extend invitations to representatives from the financial and insurance industries, employers, public utilities, and other business interests. The study must include strategies for encouraging voluntary participation in electronic data matches, the feasibility and desirability of mandatory data matches or mandatory electronic transfer of information, the identification of potential sources of income and asset information regarding child support obligors, the creation of a lien registry for property owned by a delinquent child support obligor, and the development of procedures for conducting data matches that are secure and limited to the information needed to assist in the establishment and enforcement of child support and medical support orders. The department of human services shall present the findings

and recommendations of the task force, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

The Task Force has met three times, including on Tuesday of this week. The very preliminary recommendations so far are to

1. follow the precedent set in state law regarding Job Service North Dakota and require all employers with 24 or more employees to submit information and payments electronically,
2. review the compensation provided to financial institutions for participating in a data match, and
3. explore creation of a statewide lien registry for all real property and titled personal property in North Dakota owned by child support obligors.

At this point, the Task Force has informally agreed to recommend law changes on employers

1. with more than 24 employees remitting funds electronically,
2. reporting health insurance coverage they provide to staff, and
3. providing 1099 information when independent contractors are hired by their business in certain circumstances.

We anticipate these recommendations and others to be voted on before the group completes its work in May.

CSE has also convened a Medical Support Advisory Group to provide recommendations on implementing new federal program requirements in the

areas of health insurance and cash medical support. It is too early to tell whether that group will be recommending legislation for the next session.

Madame Chairman, that concludes my testimony.

**NonIV-D Fee
Survey Results
January 2010**

Attachment

Are Parents Charged a Fee					
State	No	Yes	Annual Amount	Paid By	Note
Alabama	1				
Arkansas		1	\$36	NCP	(NCP = Noncustodial Parent)
Colorado	1				
DC	1				
Delaware	1				
Florida		1	not specified	COC	(COC = Clerk of Court)
Guam	1				
Hawaii		1	\$25	CP	(CP = Custodial Parent)
Illinois		1	\$36	not specified	Fee paid to Clerk of Court
Iowa	1				
Kentucky	1				
Louisiana	1				
Maine	1				
Maryland	1				
Massachusetts		1	\$25	State	
Minnesota		1	\$180	NCP	
Montana	1				
New Hampshire	1				
New Jersey		1	\$25	State	
N. Carolina		1	\$25	Client	
N. Dakota		1	\$2.10 /month	CP	
Oklahoma	1				
Rhode Island	1				
S. Carolina		1	5% collection fee to COC; \$25 appl. Fee - non-TANF CP & NCP; fees for offsets	NCP	
South Dakota	1				
Virgin Islands	1				
Washington	1				
West Virginia	1				
Wisconsin		1	\$25	CP	
Wyoming	1				
Totals	19	11	30		
Percentage	63%	37%			