

**Testimony
Department Of Human Services
Judicial Process Committee
Representative Shirley Meyer, Chairman
September 16, 2010**

Chairman Meyer, members of the Judicial Process Committee, I am James Fleming, Acting Director and Chief Legal Counsel of the Child Support Enforcement Division of the Department of Human Services. Thank you for the opportunity to present information to the committee regarding developments in child support activities, including child support guidelines, child care expenses, interstate cases, and outreach to the state bar.

Arrears. The statewide arrears total as of June 30, 2010, including interest, was \$282,754,306. However, as the attached **chart** shows, the amount of arrears owed in IV-D cases, which are the cases being served by our program, has dropped for the first year since we began collecting this information. This decrease has occurred even though new child support arrears are added every month, and the existing balance accrues simple interest at 6.5% per year. This has been accomplished by a number of new or refined business practices, including: increased collection of current support through income withholding and employer compliance, realistic child support obligations, and improved collection of arrears such as through license suspension and payment plans. We appreciate the support of the Legislature in changing state law as needed to improve our operations. The amount of arrears is still too high, but we are making progress and hope to keep momentum moving in a positive direction.

Child Support Guidelines. The child support guidelines, adopted by the Department as administrative rules, are reviewed on a quadrennial basis. Early this summer, a statutory drafting advisory committee was convened and recommended many changes to the Department. These proposed changes will be the subject of a public hearing on Thursday, October 28. Each quadrennial review leads to fewer and fewer recommended changes, but one major proposed change under review is the amount of current support to be ordered when an obligor is incarcerated for at least a year. The drafting advisory committee had extensive discussion about not rewarding criminal behavior through reduced child support obligations, but acknowledging the uncollectibility of the arrears that accrue because of nonpayment while the obligor is incarcerated, the unrealistic expectations that a family may have regarding collection of those arrears, and the challenge faced by inmates who may be released owing thousands of dollars in child support arrears. We look forward to input from the public on the proposed change.

Child Care Expenses. At its meeting in February, this committee heard testimony from a private attorney in a number of child support areas, including child care expenses. The attorney suggested to this committee that deviations from the child support guidelines for child care expenses were inconsistently applied from court to court. Child care expenses were discussed by the advisory committee. Ultimately, that committee, including the member who is a private attorney, did not recommend a guideline change in this area. Instead, the drafting committee asked the Department to prepare material for the Bar and the public explaining the level of child care expenses that are included in the guidelines based on USDA figures for the cost of supporting children, and the level of child care expenses for which a deviation would be appropriate. We plan to

have this material prepared in time for the public hearing in October. This material will also be included in a publication of the State Bar Association.

Interstate Cases. The private attorney also mentioned the difficulty that some parents have in collecting child support from obligors in other jurisdictions. Each state's child support enforcement program has enacted the Uniform Interstate Family Support Act, which provides a standard process in all states for requesting and receiving help in cases. Notwithstanding this law, interstate cases are often still difficult to work and produce collections. To help make sure all available steps are taken in cases in which we have asked for another state's help, we have specialized this work with an Outgoing Interstate Center in Grand Forks. Since each specialized worker is given a specific state or states to work with, the worker is able to develop contacts in those states that will hopefully bridge the communication gap between states and lead to higher levels of enforcement activity in these cases.

As with all IV-D cases, a parent may apply for services from our program for free if the obligor lives in another state. The parent is not required to travel to the other state or hire an attorney in the other state.

Outreach to Private Bar. In individual cases, parents and their attorneys often stipulate to obligations or payment arrangements that are not consistent with state or federal law. In the absence of an objection or explanation of the problem, some courts may unintentionally approve these stipulations, and the problem does not surface until enforcement actions are taken because payments are not received by the state disbursement unit. Our program regularly works with these attorneys on

a case-by-case basis to correct the problem. In addition, the attorneys in our program participate in numerous continuing legal education seminars each year to help familiarize the private bar with our program requirements, any problem areas, and any law changes in the child support area. This training will continue on an on-going basis, because our program needs, and is committed to having, an effective working relationship with private attorneys.

Madame Chairman, this concludes my prepared testimony and I would be glad to respond to any questions the committee may have.

**Child Support
Principal and Interest
As of June 30, 2010**

State Fiscal Year	Judgment Interest Rate*	IV-D			NonIV-D			Combined IV-D and NonIV-D		
		Principal	Interest	Total	Principal	Interest	Total	Principal	Interest	Total
2003	12%	\$164,480,168	\$ -	\$164,480,168	\$ 27,878,143	\$ -	\$ 27,878,143	\$192,358,311	\$ -	\$192,358,311
2004	12%	\$172,394,776	\$ 3,264,050	\$175,658,826	\$ 30,338,519	\$ 704,121	\$ 31,042,640	\$202,733,296	\$ 3,968,171	\$206,701,467
2005	12%	\$179,758,618	\$ 12,067,915	\$191,826,533	\$ 32,926,582	\$ 3,118,534	\$ 36,045,116	\$212,685,201	\$ 15,186,448	\$227,871,649
2006	10%	\$182,674,592	\$ 21,793,010	\$204,467,602	\$ 36,353,086	\$ 6,592,857	\$ 42,945,943	\$219,027,678	\$ 28,385,867	\$247,413,545
2007	11.5%	\$188,486,200	\$ 28,223,563	\$216,709,763	\$ 38,622,517	\$ 10,011,409	\$ 48,633,926	\$227,108,717	\$ 38,234,972	\$265,343,689
2008	10.5%	\$190,281,971	\$ 31,221,511	\$221,503,482	\$ 41,275,893	\$ 13,768,736	\$ 55,044,629	\$231,557,864	\$ 44,990,247	\$276,548,111
2009	7.0%	\$191,600,846	\$ 30,579,800	\$222,180,646	\$ 42,163,467	\$ 15,734,251	\$ 57,897,718	\$233,764,313	\$ 46,314,051	\$280,078,364
2010	6.5%	\$190,644,874	\$ 29,270,909	\$219,915,783	\$ 44,991,790	\$ 17,846,733	\$ 62,838,523	\$235,636,664	\$ 47,117,642	\$282,754,306

* Prior to January 1, 2006, child support interest is a statutory 12% unless otherwise ordered. Thereafter, N.D.C.C. § 28-20-34, requires interest to be set, effective each January 1, by the State Court Administrator at 3% points (rounded up to the next half percentage point, if necessary) above prime rate as reported on the first Monday in December. Child support interest is simple interest.