

Department of Human Services
Senate Judiciary Committee
Senator Diane Larson, Chairman

January 6, 2021

Chairman Larson and members of the Judiciary Committee, I am Jim Fleming, Director of the Child Support Division of the Department of Human Services (Department). Although the Department agrees with much of Senate Bill 2082, we need to oppose the bill as it is currently written because of the lack of an appropriation to cover the costs of performing the work that would be transferred to the Department.

We understand that certification of records is rarely necessary, and so we have no concerns or fiscal impact in **Section 1** of the bill.

Section 2 proposes two changes. First, it removes the option of a court to start a contempt proceeding for nonpayment of child support on its own initiative rather than waiting for a request from a parent or child support. We understand that this happens fairly infrequently in most counties. Second, it removes the need to obtain a certified copy of a support order to “transcribe” the order for enforcement in another county. Now that court orders are maintained electronically in a public database, certification is an outdated and unnecessary process. The Department has no concerns or fiscal impact in this section of the bill.

Section 3 amends the section of state law creating the process for extending child support beyond age 18 if the child is still attending high school. Currently, the clerk of court in each county receives a computer-generated alert a month before the child turns 18 and mails a blank affidavit to the parent with primary residential responsibility for the child. If the affidavit is completed and returned, the clerk mails a copy of the signed affidavit to the parent who owes child support. The affidavit automatically extends the duration of the court-ordered child support obligation until

the child graduates or turns 19, whichever occurs first. Page 3 line 22 would make this a responsibility of the Department instead of the clerks of court. The Department is uncomfortable becoming involved in determining when a court order expires, but our greater concern is with the fiscal impact of mailing blank affidavits to every parent with residential responsibility of a child nearing the age of 18, mailing completed affidavits to parents who owe child support, and adding expiration dates for the obligations on the state's payment records.

Section 5 removes some obsolete language, and we have no concerns or fiscal impact from that section.

Section 4 and **Section 6** relieve the clerks of court of the responsibility to use the statewide automated child support data processing system and transfer that responsibility to the Department. Functionally, what this means is that clerks of court will no longer be entering court order information in the system, lowering child support obligations as provided in the court order when an older sibling emancipates, accepting and recording any demographic updates provided by parents, or initiating occasional corrections and updates to the payment ledgers in roughly 20,000 child support cases that are not currently being enforced by the Department. This is a significant amount of work for which the bill currently does not provide an appropriation and which is not included in either the Governor's budget or the appropriation bill for the Department.

Section 4, page 4, lines 18-21 also codifies the payment processing services in spousal support cases that have been voluntarily provided by the Department to the court for more than 20 years at no charge. This relieved the court from maintaining a payment receipt and disbursement system in each county for a fairly small number of spousal support payments that are due each month.

In June 2020, the Department agreed to pilot the entry of court order information by Department team members instead of the clerks of court, in recognition of a

significant data entry error rate by the clerks of court. It has been clear for some time that the clerks do not derive value from the data they are entering. The pilot has expanded to 28 counties, and we are now entering just under one-third of the total new and amended child support orders across the state.

The Department and court are currently working to finalize the fiscal note for the bill. Multiple additional full-time equivalent positions would be needed. For entering orders in all cases and for other work in the roughly 35,000 cases in North Dakota that are being enforced by the Department under Title IV-D of the Social Security Act, the federal government reimburses the state for 66% of its allowable expenses, including roughly \$1.8 million per biennium in court costs. For the other cases that are not being enforced under Title IV-D, the work being transferred is not eligible for federal funding and therefore is performed at 100% state expense.

As shown by our pilot program, we share the court's interest in making improvements in efficiency and customer service for parents in a child support case. However, the amount of work being transferred cannot be managed with our existing resources.