



Driver's License Suspension and other Enforcement Tools: *The Good, The Bad, and the Ugly*

Jim Fleming, JD, NCSEA President and Director,
North Dakota Child Support Program

Ryan Morrow, JD, Assistant Attorney General,
Texas Child Support

Veronica Riley, MPA, WICSEC President and
Assistant Director, San Joaquin County Child
Support



Driver's License Suspension: A Story

- Notice from DMV
- Driving on suspended license for 6 months
- Insurance cancelled
- Working with DMV to get it reinstated
- Getting rides



License Suspension: The Numbers

- 42% will lose their job
- 45% reported not finding another job
- 88% reported reduced income
- Risk driving on suspended license to work or take care of kids
- 15% will flee an accident (compared to 1.7% of licensed)
- \$400 ticket



The People Behind the Numbers

- 84% of people ordered to pay child support have income of less than \$40k per year
- \$7 billion past due child support debt
- 95% considered uncollectible
- 99% of debtors annual income is \$30k or less
- 60% of debtors annual income is \$10k or less



Disproportionate Effect on People of Color and Low-Income Families

- Majority of debt owed by low-income and people of color
- People of color are 3 times more likely to receive public assistance
 - ✓ Widens the Wealth Gap
 - ✓ Perpetuates cycle of Poverty, Incarceration
 - License Suspension
 - Bank Levy
 - Tax Intercept
 - Wage Garnishment
 - Credit Reporting



Texas Licenses Suspension

Texas law allows for the suspension of a license issued to an NCP who:



- owes overdue child support in an amount equal to or greater than the total support due for three months [Tex. Fam. Code § 232.003(a)(1)]
- has been provided an opportunity to make payments toward the overdue child support under a court ordered or agreed repayment schedule [Tex. Fam. Code § 232.003(a)(2)]
- fails to comply with the repayment schedule [Tex. Fam. Code § 232.003(a)(3)]

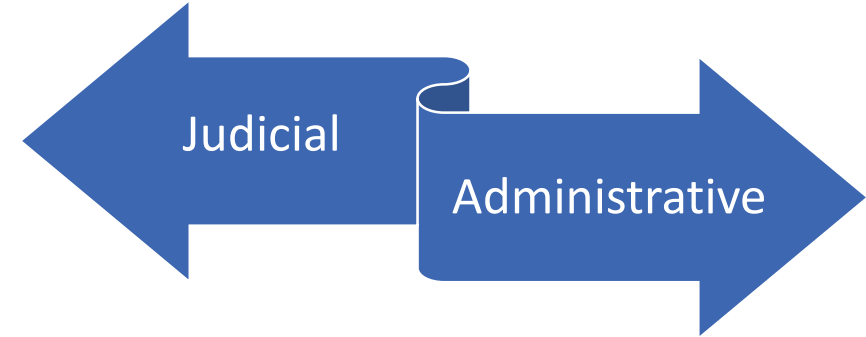


Licenses Suspension in Texas

What's a License?

- License, certificate, registration, permit
- Issued by a licensing authority
- Subject to suspension, revocation, forfeiture, or termination (prior to expiration) by the licensing authority
- Includes:
 - Professional, business, and occupational licenses
 - Vehicle operation
 - Recreation (hunting and fishing)

Tex. Fam. Code § 232.001





Texas Collection Activities

FY2020 - \$4,891,335,751



Administrative License Suspension

- \$735,563 on 460 actions

Denial of Motor Vehicle Registration

- \$4.1 million on 15,337 actions

Qualified Domestic Relations Orders

- \$2.48 million

Financial Institution Data Match

- \$24.6 million

Income Withholding

- \$3.814 billion



California Submission Criteria

- 30 Days delinquent- submit to DMV
- Issuance or Renewal
- DMV issues 150 day notice for response
- Repeats after 30 days (no additional notice)
- Release- two weeks



California Legislation- SB 1055

- Adds Section 17520.5 to the Family Code
- Effective January 1, 2025
- Prohibits DCSS from submitting some delinquent obligors to DMV
 - Annual household income at or below 70% of median income in the county in which obligor resides
 - Data from Dept of Housing & Community Development

https://ctweb.capitoltrack.com/Bills/21Bills/sen/sb_1051-1100/sb_1055_91_C_bill.pdf



Collections

Informal Studies

- County Call Center
10/2020-09/2021
- 904 Requests for SLMS Release
- 421 Accepted
- \$863,735 collected



Collections

FFY 2018/2019, one CA County reported that SLMS collections made up \$680,824, which was .33% of annual collections

Team	Volume of Reviews	Collections
FIDM Team	67%	\$205,848
CSC Team	33%	\$414,976



Collections

0.34% of monthly collections

Total Calls Handled by CCC 3/28/22-4/8/22	1914
Total SLMS Related Calls	94
% of SLMS related calls	5%
Number Of SLMS Releases Generated	75
% of SLMS related calls resulting in SLMS Release	80%
Number of Payments Taken	21
% of SLMS related calls resulting in a Payment	22%
Payment totals	\$5,330.51
Number of MODS Initiated	3
Number of WorkNet Referrals	3
Number of DRP Applications Sent	3



North Dakota License Suspension

What can be withheld, restricted, or suspended (NDCC 50-09-08.6(1)(a))?

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.



North Dakota License Suspension

Steps in the suspension process (NDCC 50-09-08.6(3,4))

- For new actions, automated system generates a worker alert that case is eligible for suspension and case assessment is necessary. Worker determines whether to proceed. Process commences with written notice by first-class mail to last-known address that licensee has 30 days to comply with the subpoena, satisfy the arrearage in full, or negotiate a payment plan with IV-D. The notice also advises that the action can be contested in the licensee requests a court hearing within 10 days.
- For suspension based on breach of previous payment plan, automated system alerts worker that plan has been breached and case assessment is necessary. If worker decides to suspend, administrative suspension order is mailed to licensee and suspension takes effect immediately. The notice advises that the order can be contested within 10 days.



North Dakota License Suspension

Standard of Judicial Review (NDCC 50-09-08.6(6)):

- In a contest under this section, the court shall affirm the action of the state agency to withhold, restrict, or suspend a license unless the court finds that the state agency's decision was arbitrary, unreasonable, or capricious.
- Child Support's action cannot be appealed to the licensing authority, cannot be reversed by the licensing authority, and is not subject to other administrative appeal processes.
- 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.



North Dakota License Suspension

Negotiating Payment Plans (NDCC 50-09-08.6(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.



North Dakota License Suspension

Other key information:

- Statewide judgment interest rate: Beginning January 1, 2006, the interest is payable at a rate equal to the prime rate published in the Wall Street Journal on the first Monday in December of each year plus three percentage points rounded up to the next one-half percentage point and may not be compounded in any manner or form. On or before the twentieth day of December each year, the state court administrator shall determine the rate Interest on unpaid child support obligations must be calculated under section 14-09-25 according to the rate currently in effect under this section regardless of the date the obligations first became due and unpaid. NDCC 28-20-34.
- 6.5% annual rate nearly every year since 2009



North Dakota License Suspension

Other key information:

- The child support agency may suspend or waive judgment interest on an arrearage as part of an amnesty program, as an incentive for satisfying a child support obligation or **complying with a payment plan**, or if the child support agency determines that the judgment interest is not collectible through commercially reasonable efforts. This subsection applies to judgment interest accruing **before July 1, 2005**, only if the arrearage is assigned to the child support agency under section 50-09-06.1 or 50-24.1-02.1 or if the obligee provides written consent. Any judgment interest that is suspended or waived under this subsection may be **reinstated** by the child support agency if the obligor has failed to comply with a payment plan. (NDCC 14-09-25(8))



North Dakota License Suspension

How has a firm approach impacted collections?

- Current support collection performance FY 2022 – 75.88%
- Statewide IV-D arrears, including interest
 - End of FFY 2022 - \$252,770,153.15
 - End of FFY 2016 - \$252,491,565.40



North Dakota License Suspension

How does this comport with procedural justice?

- Research has shown that if people perceive a process to be fair, they will be more likely to comply with the outcome of that process, whether or not the outcome was more favorable to them.
- 5 key elements of procedural justice
 - Respect for parents and their concerns
 - Understanding of the process
 - Voice is heard regarding perspectives and concerns
 - Neutrality is perceived through a decision-making process that adjusts to the parent's specific circumstances
 - Helpfulness in addressing the parent's situation
- What is the path to success? Don't set parents up to fail



North Dakota License Suspension

How selectively is suspension used as a tool?

- 21,682 parents who owe child support
- 14,902 parents who owe arrears
 - 2,648 parents with arrears owe \$1,000 or less (17.77%)
- 2,872 parents with at least one suspended license (19% of parents who owe arrears)
- 895 parents currently under a payment plan (6% of parents who owe arrears)



North Dakota Collections Strategy

- “Arrears registry” concept envisions early intervention before arrears balance gets unmanageable
- Shortened periodic review cycle from 36 months to 18 months
- Continued changes to imputation of income
- Contempt screening – Parental Responsibility Initiative for Development of Employment (PRIDE)
 - For 2021, PRIDE participation led to 40% increase in number of months a payment was received and a 38% increase in collections



Other Enforcement Remedies

- Contempt
 - Ability to Pay Assessment
- Denial of Motor Vehicle Registration
- Insurance Intercept
- Lottery Intercept
- State Debt Set-Off





References

Edin, K., Nelson, T.J., Butler, R. and Francis, R. (2019). *Taking Care of Mine: Can Child Support Become a Family-Building Institution?* Journal of Family Theory and Review, 11: 79-91. <https://doi-org.libproxy.lib.csusb.edu/10.1111/jftr.12324>

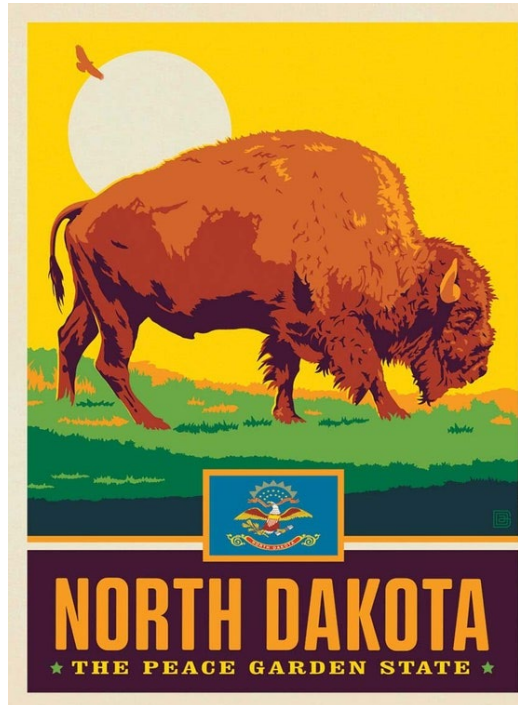
The Urban Institute. (2003, March). Examining Child Support Arrears in California: The Collectability Study. <https://www.urban.org/research/publication/examining-child-support-arrears-california-collectability-study>

The Urban Institute. (2019, August 28). Relief from Government-Owed Debt and Its Effects on Parents and Children. <https://www.urban.org/research/publication/relief-government-owed-child-support-debt-and-its-effects-parents-and-children>

Tipping Point Community. (2019, April 8). *The Payback Problem*. <https://tippingpoint.org/news/the-payback-problem>



Contact Us



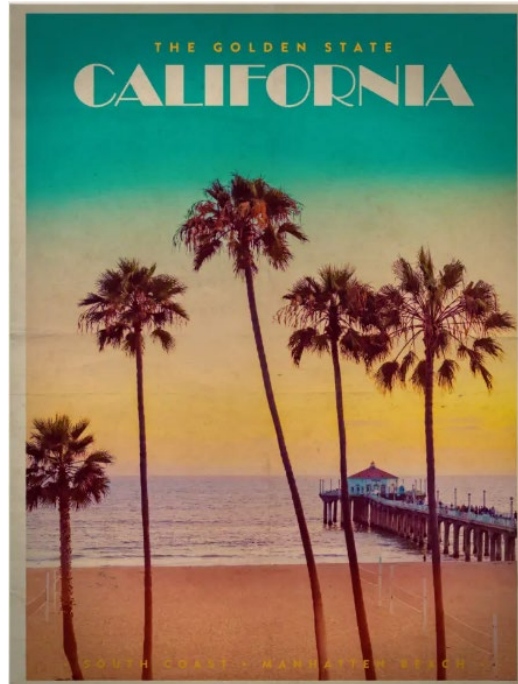
Jim Fleming, JD, NCSEA President and Director, North Dakota Child Support Program

jfleming@nd.gov

Ryan Morrow, JD, Assistant Attorney General, Texas Child Support

Deputy Division Chief – Field Legal Practice

Ryan.Morrow@oag.texas.gov



Veronica Riley, MPA, WICSEC President and Assistant Director, San Joaquin County Child Support

vriley@sjgov.org