

2023 SENATE TRANSPORTATION

SB 2219

2023 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2219
1/26/2023

Relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, and more.

9:04 AM Chairman Clemens opened the hearing.

Senators present: **Clemens, Conley, Larsen, Paulson.**

Senators Absent: **Rummel.**

Discussion Topics:

- Driver License suspension
- License restriction
- Neighbor States
- Federal law
- Policy requirement
- Suspension numbers

9:04 AM Senator Hogue introduced bill. #17038 #17095

9:17 AM Jesse Walstad, Association of Criminal Defense Lawyers, testified in favor. #16973

9:28 AM James Fleming, Child Support Section of the Department of Health and Human Services, testified neutrally. #17030

Additional written testimony:

Mark Friese #14866

10:22 AM Chairman Clemens adjourned the hearing.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2219
2/2/2023

Relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract; and to provide a penalty.

2:32 PM Chairman Clemens opens meeting.

Senators Present: **Clemens, Conley, Larsen, Rummel, Paulson.**

Discussion Topics:

- License suspension
- Child support
- License restriction
- Suspension frequency
- Statute of limitations

2:33 PM James Fleming – Child Support Director for Department of Health and Human Services, in verbal opposition.

3:25 PM Chairman Clemens adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2219
2/3/2023

Relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract; and to provide a penalty.

10:50 Chairman Clemens opens meeting.

Senators Present: **Clemens, Conley, Larsen, Rummel, Paulson.**

Discussion Topics:

- Bill review
- Child support

Chairman Conley provided an update on the bill progress and verbally discussed possible changes.

Committee discussed.

10:57 AM Chairman Clemens adjourns hearing.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2219
2/9/2023

relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract; and to provide a penalty.

9:04 AM Vice Chairman Conley opens hearing.

Senators present: **Clemens, Conley, Larsen, Rummel, Paulson.**

Discussion Topics:

- Study options
- Occupational licenses
- Amendment

9:05 AM James Fleming – Director for ND Child Support, provided testimony (#20378).

9:46 AM Chairman Clemens adjourns meeting.

Nathan Liesen, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2219
2/10/2023

relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract; and to provide a penalty.

8:59 AM Chairman Clemens opens hearing.

Senators present: **Clemens, Conley, Larsen, Rummel, Paulson.**

Discussion Topics:

- Fine suspensions

9:06 AM Senator Larsen motioned to adopt amendment.LC# 23.0687.01004 (#20468, #20469)

9:06 AM Senator Rummel seconded.

Senators	Vote
Senator David A. Clemens	Y
Senator Cole Conley	Y
Senator Doug Larsen	Y
Senator Bob Paulson	Y
Senator Dean Rummel	Y

Motion passed 5-0-0

9:07 AM Senator Larsen motioned a Do Pass as amended.

9:07 AM Senator Rummel seconded.

Senators	Vote
Senator David A. Clemens	Y
Senator Cole Conley	Y
Senator Doug Larsen	Y
Senator Bob Paulson	Y
Senator Dean Rummel	Y

Motioned passed 5-0-0

9:08 AM Senator Rummel will carry.

Senate Transportation Committee
SB 2219
2-10-2023
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9:09 AM Chairman Clemens adjourns meeting.

Nathan Liesen, Committee Clerk

PROPOSED AMENDMENTS TO SENATE BILL NO. 2219

Page 1, line 7, after the semicolon insert "to provide for a legislative management study;"

Page 4, after line 29, insert:

**"SECTION 8. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE
SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT.** During the 2023-24
interim, the legislative management shall consider studying the desirability and
feasibility of repealing the department of health and human services' ability to suspend
motor vehicle licenses for nonpayment of child support. The study must include an
assessment of possible alternative mechanisms that could be implemented to
encourage compliance with an existing child support payment plan. The study may
include input from the supreme court, the attorney general, and the department of
health and human services. The legislative management shall report its findings and
recommendations, together with any legislation necessary to implement the
recommendations, to the sixty-ninth legislative assembly."

Renumber accordingly

DR
171
2-10-2023

REPORT OF STANDING COMMITTEE

SB 2219: Transportation Committee (Sen. Clemens, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2219 was placed on the Sixth order on the calendar. This bill affects workforce development.

Page 1, line 7, after the semicolon insert "to provide for a legislative management study;"

Page 4, after line 29, insert:

"SECTION 8. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT. During the 2023-24 interim, the legislative management shall consider studying the desirability and feasibility of repealing the department of health and human services' ability to suspend motor vehicle licenses for nonpayment of child support. The study must include an assessment of possible alternative mechanisms that could be implemented to encourage compliance with an existing child support payment plan. The study may include input from the supreme court, the attorney general, and the department of health and human services. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly."

Renumber accordingly

2023 HOUSE TRANSPORTATION

SB 2219

2023 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Room JW327E, State Capitol

SB 2219
3/16/2023

A bill relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract.
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Chairman D. Ruby opened the hearing at 10:45AM.

Members present: Chairman Ruby, Vice Chairman Grueneich, Representatives Anderson, Christensen, Dyk, Frelich, Hauck, Koppelman, Murphy, Timmons, Wagner, Weisz, Dakane. **Members absent:** Representative Dobervich.

Discussion Topics:

- Elimination of driver's license suspension
- Workforce development issue
- Liability insurance and nonpayment of child support
- Free to Drive program

Senator Hogue introduced the bill in support (#25578).

Jim Fleming, Child Support Director with North Dakota Department of Human Services, verbally clarified information with the committee.

Senator Hogue continued with his testimony.

Jim Fleming, Child Support Director with North Dakota Department of Human Services, answered questions from the committee.

Senator Hogue answered questions from the committee.

Jim Fleming, Child Support Director with North Dakota Department of Human Services, answered questions from the committee and verbally provided neutral testimony.

Chairman D. Ruby closed the hearing at 11:26AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Room JW327E, State Capitol

SB 2219
3/23/2023

A bill relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract.

Chairman D. Ruby opened the meeting at 9:37 AM.

Members present: Chairman Ruby, Vice Chairman Grueneich, Representatives Anderson, Christensen, Dyk, Frelich, Hauck, Koppelman, Murphy, Timmons, Wagner, Weisz, Dakane, Dobervich. No members absent.

Discussion Topics:

- Committee discussion
- Committee vote

Representative Weisz moved a **Do Not Pass**.

Representative Murphy seconded the motion.

Roll call vote:

Representatives	Vote
Representative Dan Ruby	Y
Representative Jim Grueneich	Y
Representative Karen A. Anderson	Y
Representative Cole Christensen	Y
Representative Hamida Dakane	Y
Representative Gretchen Dobervich	Y
Representative Scott Dyk	Y
Representative Kathy Frelich	Y
Representative Dori Hauck	Y
Representative Ben Koppelman	Y
Representative Eric James Murphy	Y
Representative Kelby Timmons	Y
Representative Scott Wagner	Y
Representative Robin Weisz	Y

Motion carried 14-0-0

Representative Murphy is the bill carrier.

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Additional Written Testimony: Sally Holewa #26435

Chairman D. Ruby adjourned at 9:51 AM.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2219, as engrossed: Transportation Committee (Rep. D. Ruby, Chairman)
recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2219 was placed on the Fourteenth order on the calendar.

2023 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Room JW327E, State Capitol

SB 2219
4/6/2023

A bill relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of licenses, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract.

Chairman D. Ruby opened the meeting at 11:47 AM.

Members present: Chairman Ruby, Vice Chairman Grueneich, Representatives Anderson, Christensen, Dyk, Frelich, Hauck, Koppelman, Murphy, Timmons, Wagner, Weisz, Dakane, Dobervich. No members absent.

Discussion Topics:

- Reconsideration
- Payment of fines and suspension of drivers' licenses
- Proposed amendment 23.0687.02001
- Committee vote

Representative Koppelman moved to reconsider our actions.

Representative Christensen seconded the motion.

Representative Koppelman distributed proposed amendments 23.0687.02001 (#27362) and explained.

Roll call vote to reconsider:

Representatives	Vote
Representative Dan Ruby	Y
Representative Jim Grueneich	Y
Representative Karen A. Anderson	Y
Representative Cole Christensen	Y
Representative Hamida Dakane	N
Representative Gretchen Dobervich	N
Representative Scott Dyk	Y
Representative Kathy Frelich	N
Representative Dori Hauck	Y
Representative Ben Koppelman	Y
Representative Eric James Murphy	N
Representative Kelby Timmons	Y
Representative Scott Wagner	N
Representative Robin Weisz	AB

Motion carried 8-5-1

Representative Koppelman moved amendment 23.0687.02001.

Representative Grueneich seconded the motion.

Roll call vote:

Representatives	Vote
Representative Dan Ruby	Y
Representative Jim Grueneich	Y
Representative Karen A. Anderson	Y
Representative Cole Christensen	Y
Representative Hamida Dakane	N
Representative Gretchen Dobervich	N
Representative Scott Dyk	Y
Representative Kathy Frelich	N
Representative Dori Hauck	Y
Representative Ben Koppelman	Y
Representative Eric James Murphy	Y
Representative Kelby Timmons	Y
Representative Scott Wagner	N
Representative Robin Weisz	AB

Motion carried 9-4-1

Representative Koppelman moved a Do Pass as Amended.

Representative Christensen seconded the motion.

Roll call vote:

Representatives	Vote
Representative Dan Ruby	Y
Representative Jim Grueneich	Y
Representative Karen A. Anderson	Y
Representative Cole Christensen	Y
Representative Hamida Dakane	N
Representative Gretchen Dobervich	N
Representative Scott Dyk	Y
Representative Kathy Frelich	N
Representative Dori Hauck	Y
Representative Ben Koppelman	Y
Representative Eric James Murphy	N
Representative Kelby Timmons	Y
Representative Scott Wagner	N
Representative Robin Weisz	AB

Motion carried 8-5-1

House Transportation Committee
SB 2219
April 6, 2023
Page 3

Representative Koppelman is the bill carrier.

Chairman D. Ruby adjourned at 12:07 PM.

Mary Brucker, Committee Clerk

JA
4-6-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2219

Page 1, line 1, after "to" insert "create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to civil judgment for nonpayment of statutory fees; to"

Page 4, after line 24, insert:

"**SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court may enter a civil traffic judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed. The docketing of the judgment has the same effect as the docketing of a civil judgment. The docketed judgment may be docketed in any other county in the same manner, it imposes a lien upon the real property owned by the defendant to the same extent, it is subject to the same statute of limitations, and it is enforceable by execution in the same manner as provided for a civil judgment for money.
3. The civil traffic judgment may not exceed the amount of the statutory fee owed, plus interest and any applicable penalty amounts, giving credit for any amount paid.
4. The department or the applicable city or county may seek execution and enforcement of the civil traffic judgment."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2219, as engrossed: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2219 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to civil judgment for nonpayment of statutory fees; to"

Page 4, after line 24, insert:

"SECTION 7. A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court may enter a civil traffic judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed. The docketing of the judgment has the same effect as the docketing of a civil judgment. The docketed judgment may be docketed in any other county in the same manner, it imposes a lien upon the real property owned by the defendant to the same extent, it is subject to the same statute of limitations, and it is enforceable by execution in the same manner as provided for a civil judgment for money.
3. The civil traffic judgment may not exceed the amount of the statutory fee owed, plus interest and any applicable penalty amounts, giving credit for any amount paid.
4. The department or the applicable city or county may seek execution and enforcement of the civil traffic judgment."

Renumber accordingly

2023 CONFERENCE COMMITTEE

SB 2219

2023 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

SB 2219
4/21/2023
Conference Committee

relating to suspension of an operator's license for nonpayment of child support, the issuance of a temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings on suspension or revocation of license, license reinstatement fees, temporary restricted licenses, and entries on driver's record abstract; and to provide a penalty.

11:30 AM Chairman Conley opened hearing.

Present: **Senator Clemens, Senator Paulson, Senator Conley, Representative Koppelman, Representative Grueneich, Representative Dobervich**

Discussion Topics:

- Amendment
- Committee action

11:41 AM Representative Koppelman moved House to Recede from House Amendments and amend with LC 23.0687.02002 (#27362).

11:41 AM Representative Grueneich seconded.

11:42 AM Motion passed 6-0-0

**11:42 AM Senator Rummel will carry for Senate.
Representative Koppelman will carry for the house.**

11:42 AM Chairman Conley adjourned meeting.

Nathan Liesen, Committee Clerk

JK
4-21-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2219

That the House recede from its amendments as printed on page 1583 of the Senate Journal and pages 1747 and 1748 of the House Journal and that Engrossed Senate Bill No. 2219 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to civil judgment for nonpayment of statutory fees; to"

Page 4, after line 24, insert:

"**SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court shall enter a civil judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed.
3. The civil judgment may not exceed the amount of the statutory fee owed, plus interest, administrative fees, and any applicable penalty amounts, giving credit for any amount paid."

Re-number accordingly

**2023 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2219 as (re) engrossed

Senate "Enter committee name" Committee

- Action Taken** **SENATE accede to House Amendments**
 SENATE accede to House Amendments and further amend
 HOUSE recede from House amendments
 HOUSE recede from House amendments and amend as follows
- Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Koppelman Seconded by: Grueneich

Senators	4/21		Yes	No		Representatives	4/21			Yes	No
Conley, Cole (R) (Chair)	X		X			Koppelman, Ben (R)	X			x	
Paulson, Bob (R)	X		X			Grueneich, Jim (R)	X			X	
Clemens, David A. (R)	X		x			Dobervich, Gretchen (D)	X			x	
Total Senate Vote			3			Total Rep. Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Rummel House Carrier Koppelman

LC Number 23.0687 . 02002 of amendment

LC Number 23.0687 . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.0687.02002
Senate Carrier: Rummel
House Carrier: Koppelman

REPORT OF CONFERENCE COMMITTEE

SB 2219, as engrossed: Your conference committee (Sens. Conley, Paulson, Clemens and Reps. Koppelman, Grueneich, Dobervich) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 1583, adopt amendments as follows, and place SB 2219 on the Seventh order:

That the House recede from its amendments as printed on page 1583 of the Senate Journal and pages 1747 and 1748 of the House Journal and that Engrossed Senate Bill No. 2219 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to civil judgment for nonpayment of statutory fees; to"

Page 4, after line 24, insert:

"**SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court shall enter a civil judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed.
3. The civil judgment may not exceed the amount of the statutory fee owed, plus interest, administrative fees, and any applicable penalty amounts, giving credit for any amount paid."

Renumber accordingly

Engrossed SB 2219 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2219



Phone: 701.237.6983
218 NP Avenue | PO Box 1389
Fargo, ND 58107-1389
mfriese@vogellaw.com

January 21, 2023

The Honorable David A. Clemens
Chair, ND Senate Transportation Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Submitted electronically only:

Re: Testimony in support of SB 2219

Dear Chairman Clemens and members of the Senate Transportation Committee,

I write individually in support of SB2219. I am an attorney in private practice in Fargo. I am a lifelong North Dakota resident, currently residing in Legislative District 45. Prior to law school, I served as a Bismarck Police officer. I retired from the North Dakota Army National Guard after serving twenty-four years.

Senate Bill 2219 would amend and reenact N.D.C.C. § 14-08.1-07 and ancillary statutes. Current statute permits suspension or withholding of driver’s licenses of child support obligors who are in arrears in an amount greater than three times the monthly support obligation. Likewise, current law allows suspension or withholding of a driver’s license for failure to comply with a subpoena related to a paternity or child support matter.

If adopted, SB2219 would permit driver’s license suspensions, but not for delayed payment of support obligations or failure to comply with a subpoena related to the nonpayment of support. While personally I would go much farther, this is a good start!

Suspension of driver’s licenses for support obligations exasperates the problem. To pay support, the obligor must work. Public transportation in North Dakota is limited; workers must drive to get to work.

It’s not just money: support included providing for minor children by driving them to school and school events, trips to the doctor, driving to after school activities, etc. Suspending a driver’s license because of arrears mostly hurts those it is purported to protect—the children.

Reinstatement of driver’s licenses is oftentimes difficult. Fees for reinstatement, applying to the court for an order authorizing reinstatement, and then meeting the Department of Transportation’s reinstatement requirements oftentimes takes months. I have been retained

on multiple occasions to assist drivers who have been unable to effectively reinstate their own driving privileges due to bureaucracy and inefficiency. I have initiated legal action against the Department of Transportation on multiple occasions because of demonstrated unwillingness to issue a restricted license when required to do so by statute.

Obtaining a temporary restricted license is cumbersome and if granted, is very limited in scope. A restricted license permits driving only for “necessities,” and driving for many routine obligations for children (swimming lessons, sporting events, church, social gatherings, etc.) is not permitted, even with a restricted license.

This bill will not only protect children, but also the motoring public. Suspended drivers are unlikely to secure liability insurance—most, if not all companies refuse to insure suspended drivers. My daughter, while driving as a new adult, was struck by an uninsured driver. She incurred extensive damage, and regrettably, carried only liability insurance on her own vehicle. While her mother and I purchased a replacement vehicle for her, I cannot begin to imagine the extent of damage this type of experience would have on a young working family.

Statistics show more than 75% of drivers continue to drive notwithstanding a license suspension. Public policy ought to favor licensed and insured drivers. The aim of compelling an obligor to catch up on child support arrears is laudable, but it should not come at the expense of creating the risk of uninsured loss to the entirety of the motoring public.

Nothing in this bill limits a court’s inherent and statutory authority to impose contempt sanctions. If an obligor intentionally refuses to comply with a court order, under N.D.C.C. Ch. 27-10, the court retains exceedingly broad authority to impose punitive and remedial sanctions, which include payment of money, forfeitures, or even imprisonment.

CONCLUSION

Policy in law should be logical and based on sound reasoning. Suspension or withholding of driving privileges to leverage those with child support arrears is illogical. It exasperates the problem it is purporting to address. It impairs the obligor’s ability to work and care for his or her children. And suspending a driver’s license endangers the entire motoring public because it results in suspended drivers operating vehicles without liability insurance.

Respectfully submitted,

/s/ Mark A. Friese

Mark A. Friese
MAF:hs

cc: Sen. Ronald Sorvaag, *via email only*
Rep. Carrie McLeod, *via email only*
Rep. Scott Wagner, *via email only*

January 25, 2023

Testimony to the **Senate Transportation Committee**

Submitted By: Jesse Walstad on behalf of the ND Association of Criminal Defense Lawyers

Testimony **in Support of S.B. 2219**

Chairmen and Members of the Senate Transportation Committee:

My name is Jesse Walstad and I represent the ND Association of Criminal Defense Lawyers. The NDACDL is made up of lawyers throughout our state who dedicate a portion of their practice to criminal defense. The mission of the NDACDL is “to promote justice and due process” and to “promote the proper and fair administration of criminal justice within the State of North Dakota.” With that mission in mind, the NDACDL **supports S.B. 2219** and recommends a **DO PASS** from the Senate Transportation Committee.

Presently, N.D.C.C. § 14-08.1-07 and related statutes, permit driver’s licenses suspensions or withholding of driving privileges from obligors who accumulate child support arrears in an amount equal to or greater than three times the monthly support obligation and those who for one reason or another may fail to comply with a subpoena related to paternity or child support. The public policy behind the statutory framework is to discourage those who would abdicate their legal obligations to their children. The most glaring flaw in the one size fits all policy is that it harms children whose obligor parents are living on the financial margins but are making honest good faith efforts to earn sufficient disposable income to meet their support obligations.

To comply with support obligations parents must be able to maintain gainful employment sufficient to meet their obligations. Deprivation of driving privileges substantially reduces access to gainful employment, and in many cases may result in termination of employment. The vast majority of North Dakotans do not live or work in areas adequately served by public transportation, further complicating the problem caused by the one size fits all statute which has a desperate impact in rural areas. The economic forces brought on by the COVID pandemic and escalating inflation have further compounded the problem for many. When parents on the margins lose employment, suffer diminished hours or wages, face rising costs of living, or unanticipated medical problems they may accrue arrears for a period despite their best efforts. Even one of life’s unanticipated expenses, such as a furnace or transmission going out, can seriously disrupt good faith support efforts. When any one of these events occurs and a parent on the margins accumulates arrears and loses their driving privileges their ability to maintain gainful employment to dig out of the financial hole rapidly deteriorates, resulting in a cycle of non-payment with diminished hope of recovery. In that way, the present statute often sets in motion a chain of events that results in harm to their respective children, in contravention of the noble underlying public policy.

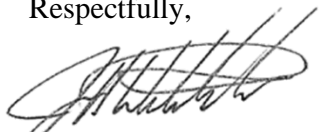
Aside from the financial quicksand, there are other negative externalities. The parent deprived of driving privileges must struggle to overcome substantial daily transportation obstacles in order to buy groceries, attend medical appointments, maintain visitation, and transport kids to and from school, daycare, and other necessary activities. Each of these obstacles, and countless others, presented by one size fits all suspensions run a significant risk of harm to the supported children. Temporary Restricted Licenses do not cure the problem because they may be inaccessible to many. The application and increased insurance costs serves as an economic bar to many living on the margins. Even if the parent can afford the application and insurance costs they may lose employment before the TRL is issued. Once issued, any operation outside of the ambiguous “necessities” puts the operator in jeopardy of misdemeanor prosecution for driving under suspension, along with all the personal and financial costs inherent in criminal prosecution.

If adopted, S.B. 2219 would take necessary steps towards ending this vicious cycle for many. The bill would permit driver’s licenses suspensions as a discretionary sanction within the Court’s judicial purview. Our District Court judges would retain the broad authority to impose remedial and punitive sanctions in many

forms, including but not limited to suspension of driving privileges. However, under S.B. 2219, if approved, our District Court judges could exercise reasonable discretion based on the unique circumstances of each case with the ultimate goal of maintaining accountability and enforcement while fashioning remedial measures most conducive to accomplishing the public policy goal – ensuring financial support to children.

For the aforementioned reasons, the NDACDL urges a **DO PASS** on S.B. 2219.

Respectfully,



Jesse Walstad

Testimony
Senate Bill No. 2219
Senate Transportation Committee
Senator David Clemens, Chairman
January 26, 2023

Chairman Clemens and members of the Senate Transportation Committee, I am Jim Fleming with the Child Support Section of the Department of Health and Human Services (Department). I appear before you to provide information regarding Senate Bill 2219.

Senate Bill 2219 would remove the authority of a court to suspend a motor vehicle operator's license for failure to pay child support. Judicial license suspension was enacted in 1997 to comply with many new federal mandates in the welfare reform law, including a requirement that the state have "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." 42 United States Code Section 666(a)(16). If North Dakota law does not provide for these procedures, it will lose all federal funding for the Temporary Assistance for Needy Families (TANF) program and the Child Support program.

In 2003, out of frustration that the courts rarely suspended licenses despite a growing amount of unpaid child support, the Legislative Assembly passed legislation giving the Department authority to suspend

licenses by administrative order. North Dakota Century Code Section 50-09-08.6.

Senate Bill 2219 as introduced does not modify the Department's administrative license suspension authority, which is why the Department does not oppose the bill as introduced and why there is no fiscal note. However, we understand an amendment may be offered which would remove our administrative license suspension authority. If both judicial and administrative suspension authority were proposed to be repealed, the Department would need to oppose the bill because of the severe negative impact on child support collections and the loss of all federal funding for TANF and Child Support. North Dakota would lose more than \$75 million per biennium.

Regardless of the federal requirement, the Department encourages you to continue supporting its administrative license suspension authority. There is more than \$250 million in past-due child support owed in North Dakota, with another \$25 million that becomes due and unpaid every year. Used selectively, administrative license suspension is the Department's most effective tool for working with parents who owe past due support.

As of December 31, 2022, out of 32,797 open cases being enforced by our program, there were 14,786 parents owing past due support and of that number, 2,913 currently had a license of some kind (recreational, driver, motor vehicle, professional, or combination of all four) administratively suspended or denied due to failure to pay child support. Of those 2,913 suspensions, 153 are "new" in the sense that the license

was suspended in the last three months and the chances are still good that the parent will negotiate a payment plan with the Department.

Of the 80.3% of parents who owe past-due child support yet are not suspended, 928 parents are current in a payment plan negotiated with the Department and are regularly paying to avoid license suspension.

The reason only 19.7% of delinquent parents are suspended is because the Department is selective in pursuing license suspension.

Administrative license suspension, as opposed to judicial license suspension, is a much more responsive process. A parent who negotiates a payment plan with the Department has his or her license reinstated overnight. A failure to honor the payment plan causes immediate communication from the Department to the parent to restore compliance, as opposed to waiting months to get back in front of the court.

Although the notion of such suspension can seem counterproductive, the key is what occurs prior to such a suspension in terms of the potential of such a suspension to motivate the parent to communicate with child support and develop an agreeable plan for payment. The Department's practice is to be generous in negotiating payment plans to avoid suspension or reinstate licenses, particularly knowing that failure to make the agreed installment payments in the plan will be quickly identified from the payment records we maintain. Often, a notice of intent to suspend prompts communication with a parent who reveals that he or she has suffered a job loss or other loss in income warranting a lower child support obligation, which we pursue with the court prior to making a final decision whether to suspend.

The administrative license suspension process begins with a 30-day written notice to the parent that describes the Department's intent to suspend the license unless the past-due support is paid in full or the parent signs a payment plan. The flexibility of the Department's administrative license suspension process comes from its ability to negotiate payment plans with parents who owe past due support:

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.

Accrual of interest on unpaid child support is suspended while the plan is in effect. If a payment plan is violated, the child support case manager is notified to review the case to determine if re-suspension is appropriate, and the negotiation process is repeated.

Suspending a license for failure to pay child support is not the same as suspending a license for failure to pay fines or fees – the money collected goes to families rather than reimbursing the government. The collection of child support promotes family self-sufficiency. Studies have shown that for every dollar of child support paid to families, nineteen cents of costs are avoided by other public assistance programs. Unlike fines or fees, child support obligations are based on the income of the parent. Perhaps most importantly, the administrative license suspension process is supported by a robust array of services offered by the Department to avoid suspension or reinstate licenses quickly when a payment plan is reached rather than holding out for full payment of the debt.

In conclusion, the judicial license suspension process is hardly ever used, because of the flexibility and effectiveness of the administrative license suspension process. If Senate Bill 2219 is enacted as introduced, families can simply apply for child support services and administrative license suspension will be available if needed to enforce the obligation.

However, if Senate Bill 2219 was amended and enacted to prohibit both judicial and administrative license suspension for nonpayment of child support, families would lose millions each year in uncollected child support and North Dakota would lose roughly \$75 million per biennium in funding for the TANF and Child Support programs.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2219**

2 **SENATE TRANSPORTATION COMMITTEE**

3 **JANUARY 26, 2023**

4

5 Good morning Chairman Clemens and members of the Senate Transportation
6 Committee. My name is David Hogue. I am a North Dakota state senator representing
7 District 38, which includes northwest Minot and the city of Burlington. I appear before
8 your committee to seek support for Senate Bill 2219.

9 SB 2219 is a bill seeks to alter the process by which a licensed driver's license is
10 suspended. As you may read under SB 2219 courts may suspend a license for
11 incompetence, driving offenses such as driving under the influence and failure to pay
12 fees fines and child support. SB 2219 would eliminate driver's license suspension for
13 non payment of fees, fines and child support.

14 I am handing out some literature regarding what other states are doing and have
15 done in the last several years regarding driver's license suspensions. As you see in the
16 map, states across the country are limiting driver's license suspensions for non-
17 payment of fees and fines. Why? Well, I submit that different states are doing it for
18 different reasons. I note that some states who have studied the issue have concluded
19 that it disproportionately affects poor people who lack the resources to get their licensed
20 reinstated. These states have concluded that it is unjust to suspend the license based
21 on an inability to pay.

1 Other states see the drivers' license suspension has a significant negative impact
2 on the state's workforce. Chairman Clemens, I do share that view.

3 What the states have concluded is that the loss of a driver's license reduces
4 wage earnings potential and actual wages. This is a common sense conclusion based
5 on the idea that individuals without a driver's license are precluded from seeking high
6 paying jobs which require a driver's license as a condition of employment. We're talking
7 about more than just the obvious cdl drivers, delivery personnel, bus drivers, etc. There
8 are many jobs where the employer insists you have a valid driver's license even if
9 driving is not the main function of the job. Constricting employees employment
10 opportunities inevitably leads to lower income in many cases.

11 Being a licensed motor vehicle driver in North Dakota affects one's employment
12 opportunities in ways that we don't always think about. How can one live, let alone work
13 in North Dakota without driving a motor vehicle? While I acknowledge it's possible you
14 can't ascend to your highest employment capacity.

15 SB 2219 seeks to enhance the employment opportunities of those with
16 suspended licenses by eliminating a vast pool of suspend drivers whose suspension
17 relates to non-payment of fines, fees, and child support obligations. Mr. Chairman and
18 committee members, I urge your support of SB 2219. I will try to answer any questions
19 you have.

20

21

Free to Drive: National Campaign to End Debt-Based License Restrictions

<https://finesandfeesjusticecenter.org/campaigns/national-drivers-license-suspension-campaign-free-to-drive/>

Free to Drive is a nationwide effort to end debt-based license restrictions

More than half of U.S. states still suspend, revoke or refuse to renew driver's licenses for unpaid traffic, toll, misdemeanor and felony fines and fees. The result: millions of people are struggling to survive with debt-related driving restrictions just because they could not afford a court fine or fee — or because they missed a court hearing.

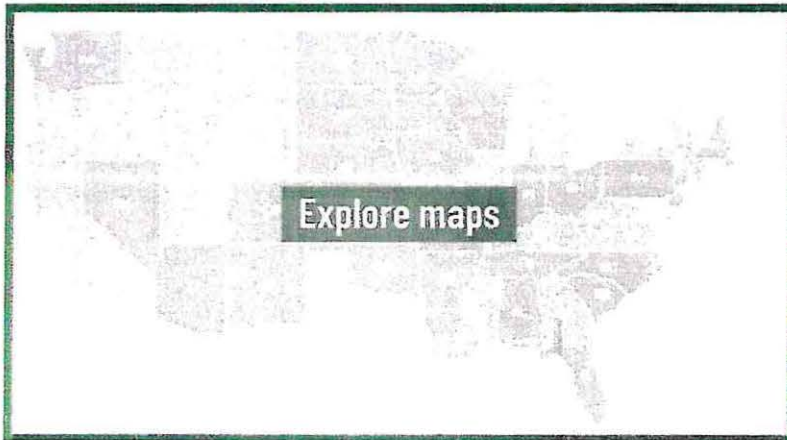
In 2019, over 100 ideologically diverse organizations launched [Free to Drive](#): a coalition united by the belief that restrictions on driving privileges should be reserved for dangerous driving, not to coerce debt payment or to punish people who miss a court appearance. In the last five years, 22 states and D.C. have passed reforms to curb debt-based driving restrictions.

Which states have enacted reforms in 2021?

This year alone, the governors of 10 states — Arkansas, Arizona, Colorado, Illinois, Indiana, Michigan, Minnesota, Nevada, Utah, and Washington — signed legislative reforms. But there is still more work to be done. In our latest recap of 2021 reforms, we give advocates 10 key questions for evaluating ongoing and future efforts.

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Explore the Free to Drive campaign's [interactive maps](#) to see which states still suspend for failure to pay fines and fees and for failure to appear for a court hearing. You can also see which states have passed reforms and those with proposed legislation.



Get the facts about debt-based restrictions on driving

Driver's license suspensions cost people their livelihoods. 86% of Americans drive to work and many jobs require a driver's license. Without a license, you can't take your children to school, buy groceries, or get healthcare. Many people have no choice but to continue driving — meaning they risk more fines and fees, a criminal conviction, and incarceration.

Suspending licenses cuts economic growth. People who can't work or who lose income due to a suspended license have less money to contribute to the economy and less money to pay off their initial fines and fees — leaving them saddled with court debt for years.

License suspensions undermine public safety. When law enforcement uses valuable time to cite, stop, fine and arrest people for driving on a suspended license due to unpaid fines and fees, they have less time to investigate and focus on crimes that endanger people's lives.

Failure to Pay Laws

<https://www.freetodrive.org/maps/#page-content>

Green States

Montana - As of 2019 legislation, the state no longer suspends, revokes, or does not allow renewal of a driver's license for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Idaho - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Oregon - Effective October 1, 2020, the state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

California - As of 2017 legislation, the state no longer suspends, revokes, or does not allow renewal of a driver's license for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Nevada - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is Not applicable.

Utah - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Colorado - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable

Wyoming - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Minnesota - Ends DLS for failure to appear in court on a petty misdemeanor parking or traffic violation or a driving after suspension ticket; Ends DLS for a conviction for driving after suspension or revocation; Ends the practice of "stacking" driver's license reinstatement fees for all except DUI-related suspensions and revocations. Suspension for failure to pay is not applicable.

Michigan - Michigan stopped suspending driver's licenses for failure to pay in all cases unrelated to the underlying offense being public safety-related. Licenses previously suspended for FTP and FTA will be reinstated without reinstatement fees. Michigan will no longer suspend a license for drug convictions and opted out of the federal requirements to do so. Suspension for failure to pay is not applicable.

Illinois - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable. .

Mississippi - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Georgia - The state does not generally suspend licenses for failure to pay fines and fees. However, they do suspend licenses for failure to pay the \$200 "Super Speeder" ticket fee. Suspension for failure to pay is mandatory.

Kentucky - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

West Virginia - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Virginia - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

New York - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Yellow States

Washington - In 2021, the state changed the law from a mandatory suspension for FTP. The court now can revoke, suspend or not renew the driver's license of a person who misses a payment of court ordered fines & fees. However, prior to suspension the court must first order a hearing on the non payment and the individual must fail to appear at the hearing. The law does not go into effect until January 2023. Until the effective date the state must suspend for FTP without a hearing. In June of 2021 an order was signed by the district court in Washington requiring the Department of Licensing (DOL) to stop suspending licenses for unpaid traffic tickets for non-criminal moving violations & reinstate previously suspended licenses. Suspension for failure to pay is (see above description).

Arizona - In 2021, AZ ended debt based driver's license suspensions, but actively suspends/holds registrations for unpaid fines and fees. Suspension for failure to pay is (see description above).

Texas - In 2019 Texas passed legislation to end driver's licenses suspensions for failure to pay fees administered under a state Driver Responsibility Program. However, Texas continues to not renew licenses under an "Omnibase" program. This program is administered on a local level within in the state, and each jurisdiction can elect into this program. Those that do can prevent the renewal of a driver's license for unpaid fines and fees. Nonrenewal for failure to pay is discretionary. Suspension for failure to pay is not applicable.

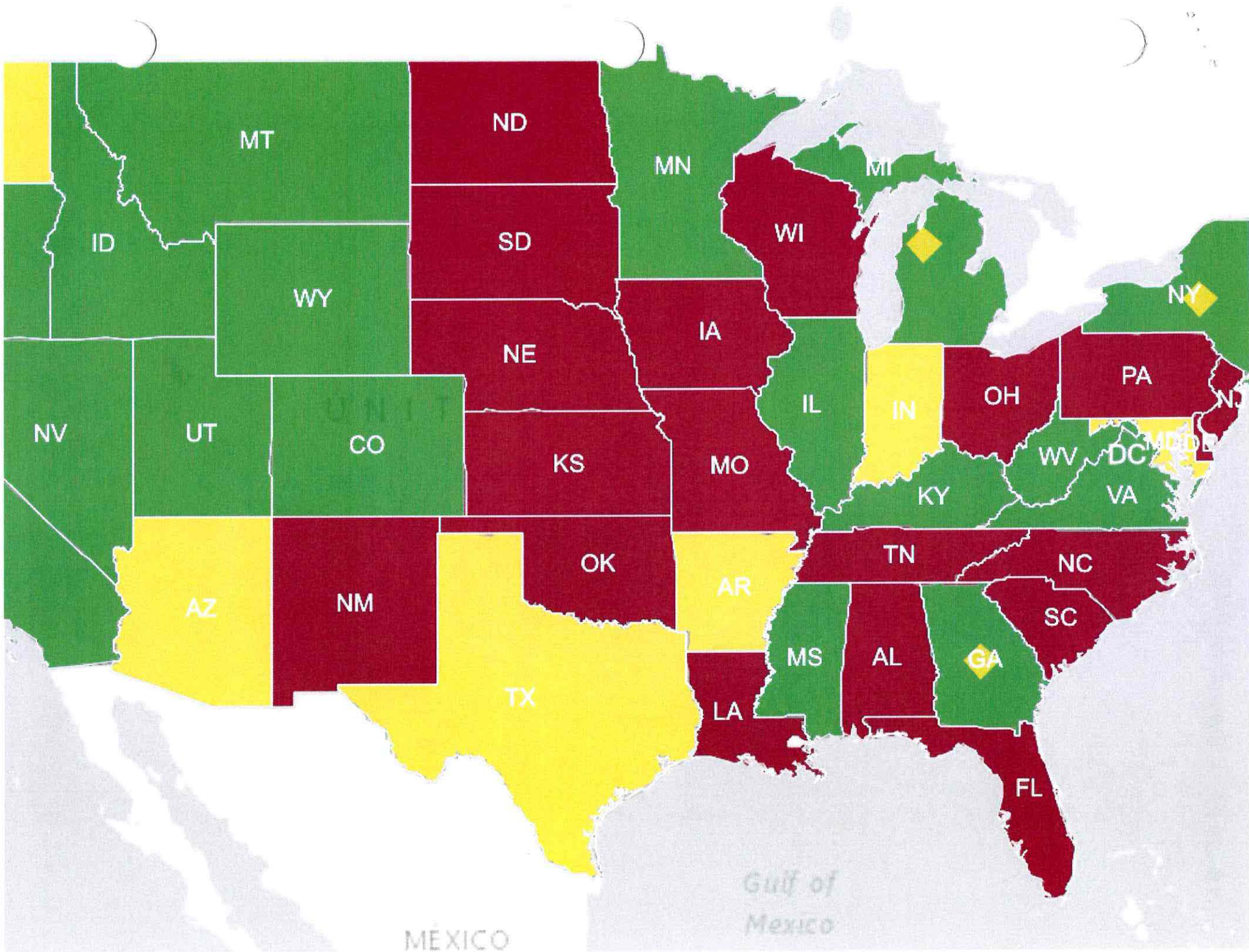
Arkansas - In 2021, the state changed the law to still allow a court to revoke, suspend or not renew the driver's license or registration of a person who does not make arrangements for the payment of court ordered fines. However, prior to suspension the court must first order a hearing on the nonpayment and the individual must fail to appear at the hearing. Suspension for failure to pay is (see above description).

Indiana - The state has partially reformed suspensions, revocations, and/or renewals for failure to pay fines and fees. See full bill text for more info Suspension for failure to pay is (see full description in bill text).

Maryland - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees for unpaid traffic violations, but continues for unpaid criminal fines and fees. Suspension for failure to pay is discretionary.

Vermont - In 2016 the state stopped suspending licenses for failure to pay fines and fees. However, Vermont continues to suspend for failure to pay fines and fees related to traffic violations punishable by points on the license. The suspensions are limited 30 days. Suspension for failure to pay is mandatory.

Maine - As of 2017 legislation, Maine does not suspend, revoke, nor not allow renewal of a driver's license for failure to pay fines and fees for criminal cases. Maine continues to suspend driver's licenses for failure to pay traffic-related fines and fees. Suspension for failure to pay is mandatory.



Child Support Section
Health and Human Services
February 9, 2023

APs with a driver's license suspension

Current Month	39	1%
2022 Suspension	609	22%
2021 Suspension	312	11%
2020 Suspension	285	10%
2019 Suspension	263	10%
2018 Suspension	266	10%
2017 Suspension	193	7%
2016 Suspension	225	8%
2015 Suspension	86	3%
2014 Suspension	76	3%
2003 - 2013 Suspension	373	14%
	2727	

23.0687.01004
Title.

Prepared by the Legislative Council staff for
the Senate Transportation Committee
February 9, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2219

Page 1, line 7, after the semicolon insert "to provide for a legislative management study;"

Page 4, after line 29, insert:

**"SECTION 8. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE
SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT.** During the 2023-24
interim, the legislative management shall consider studying the desirability and
feasibility of repealing the department of health and human services' ability to suspend
motor vehicle licenses for nonpayment of child support. The study must include an
assessment of possible alternative mechanisms that could be implemented to
encourage compliance with an existing child support payment plan. The study may
include input from the supreme court, the attorney general, and the department of
health and human services. The legislative management shall report its findings and
recommendations, together with any legislation necessary to implement the
recommendations, to the sixty-ninth legislative assembly."

Re-number accordingly

23.0687.01004

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2219

Introduced by

Senators Hogue, Clemens, Conley

Representatives Fegley, D. Ruby, Thomas

1 A BILL for an Act to amend and reenact section 14-08.1-07, subsection 6 of section 39-06-19,
 2 section 39-06-32, subsection 4 of section 39-06-33, subdivision i of subsection 2 of section
 3 39-06-49, subsection 5 of section 39-06.1-11, and subsection 2 of section 39-16-03.1 of the
 4 North Dakota Century Code, relating to suspension of an operator's license for nonpayment of
 5 child support, the issuance of a temporary permit, authority to suspend an operator's license for
 6 failure to pay a fine, hearings on suspension or revocation of license, license reinstatement
 7 fees, temporary restricted licenses, and entries on driver's record abstract; to provide for a
 8 legislative management study; and to provide a penalty.

9 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

10 **SECTION 1. AMENDMENT.** Section 14-08.1-07 of the North Dakota Century Code is
 11 amended and reenacted as follows:

12 **14-08.1-07. Suspension of motor vehicle operator's license for nonpayment of child**
 13 **support or failure to obey subpoena.**

14 When considering a contempt citation against a child support obligor who is in arrears in
 15 child support in an amount greater than three times the monthly child support obligation and the
 16 obligor is not current in a court-established plan to repay the unpaid child support arrears, or
 17 ~~when an individual~~ has failed, after receiving appropriate notice, to comply with a subpoena
 18 relating to a paternity or child support matter unrelated to nonpayment of child support, the court
 19 shall determine whether the ~~obligor~~individual has a motor vehicle operator's license issued
 20 under chapter 39-06. The court may restrict or suspend a motor vehicle operator's license
 21 issued by the state which is held by the ~~obligor~~individual. The court shall notify the department
 22 of transportation of the court's decision to restrict or suspend an ~~obligor's~~individual's motor
 23 vehicle operator's license. An appeal by an ~~obligor~~individual who has had a motor vehicle
 24 operator's license restricted or suspended under this section is an appeal from the court's order

1 and may not be appealed to the department of transportation. Except for statistical purposes, an
2 entry on the driving record or abstract of a restriction or suspension under this section after the
3 restriction or suspension ceases may not be available to the public other than by order of a
4 court of competent jurisdiction. A suspension under this section is not subject to the financial
5 responsibility reporting requirements.

6 **SECTION 2. AMENDMENT.** Subsection 6 of section 39-06-19 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 6. The director may not renew an operator's license if the license has been suspended
9 under section 14-08.1-07. Upon the recommendation of the court, the director may
10 issue a temporary permit to the licensee under section 39-06.1-11 if the temporary
11 permit is necessary for the licensee to work and the court has determined the licensee
12 is making a good-faith effort to comply with the ~~child support orders~~subpoena or child
13 support matter.

14 **SECTION 3. AMENDMENT.** Section 39-06-32 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **39-06-32. Authority to suspend licenses.**

17 4. The director may suspend the operator's license of an individual, after hearing, upon
18 proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

19 ~~a.~~1. Commission of an offense for which mandatory revocation of license is required upon
20 conviction.

21 ~~b.~~2. Incompetence to drive a motor vehicle.

22 ~~c.~~3. Unlawful or fraudulent use of an operator's license.

23 ~~d.~~4. Refusal to submit to an implied consent chemical test on an Indian reservation or in
24 another state. For purposes of this subsection, the specific requirements for
25 establishing a refusal used on the Indian reservation or in the other state may not be
26 considered, and photostatic copies of the records of the other jurisdiction's driver's
27 licensing authority are sufficient evidence of the refusal whether those copies are
28 certified. The suspension must be for the same length of time as the revocation in
29 section 39-20-04. If the refusal arose out of an arrest or stop of an individual while
30 operating a commercial motor vehicle, the period of suspension must be the same as
31 the period of revocation provided in section 39-06.2-10.

1 ~~2-5.~~ Failure, as shown by the certificate of the court, to ~~pay a fine or~~ serve any other-
2 sentence as ordered by a court upon conviction for any criminal traffic offense.

3 ~~3-6.~~ Failure, as shown by the certificate of the court, to appear in court or post and forfeit
4 bond after signing a promise to appear, if signing is required by law, in violation of
5 section 39-06.1-04, willful violation of a written promise to appear in court, in violation
6 of section 39-07-08, or violation of equivalent ordinances or laws in another
7 jurisdiction. Upon resolution by the operator of the underlying cause for a suspension
8 under this subsection, as shown by the certificate of the court, the director shall record
9 the suspension separately on the driving record. This separate record is not available
10 to the public.

11 ~~4-7.~~ An administrative decision on an Indian reservation or in another state that the
12 licensee's privilege to drive on that Indian reservation or in that state is suspended or
13 revoked because of a violation of that Indian reservation's or state's law forbidding
14 motor vehicle operation with an alcohol concentration of at least eight one-hundredths
15 of one percent by weight or, with respect to a person under twenty-one years of age,
16 an alcohol concentration of at least two one-hundredths of one percent by weight, or
17 because of a violation of that Indian reservation's or state's law forbidding the driving
18 or being in actual physical control of a commercial motor vehicle while having an
19 alcohol concentration of at least four one-hundredths of one percent by weight. The
20 specific requirements for establishing the violation on the Indian reservation or in the
21 other state may not be considered and certified copies of the records of the Indian
22 reservation's or other state's driver's licensing authority are sufficient evidence of the
23 violation. The suspension must be for the same duration as the suspension in section
24 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation
25 involves a commercial motor vehicle, the period of suspension must be the same as
26 the period of suspension provided in section 39-06.2-10. For purposes of this section,
27 originals, photostatic copies, or electronic transmissions of the records of the driver's
28 licensing or other authority of the other jurisdiction are sufficient evidence whether they
29 are certified copies.

30 ~~5-8.~~ Conviction of an offense under this title and it appears from the director's records that
31 the offense contributed to causing an accident which resulted in death or serious

1 personal injury or serious property damage. A suspension may not be imposed if the
2 individual has been sanctioned for the same offense under section 39-06-31.

3 **SECTION 4. AMENDMENT.** Subsection 4 of section 39-06-33 of the North Dakota Century
4 Code is amended and reenacted as follows:

5 4. If a suspension is ordered under ~~subdivision b~~ of subsection 42 of section 39-06-32,
6 the notice must include a specific description of the conditions which led to the
7 conclusion that the licensee is incompetent to drive a motor vehicle. If during the
8 suspension those conditions dissipate, the licensee may request another hearing on
9 the issue of competence to drive a motor vehicle. The hearing must be held in the
10 manner required under subsections 2 and 3 for the original suspension.

11 **SECTION 5. AMENDMENT.** Subdivision i of subsection 2 of section 39-06-49 of the North
12 Dakota Century Code is amended and reenacted as follows:

13 i. Reinstatement after suspension is fifty dollars unless the suspension was the
14 result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or
15 ~~subdivision b~~ of subsection 42 of section 39-06-32, then the fee is twenty-five
16 dollars, or unless the suspension was a result of a violation under section
17 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

18 **SECTION 6. AMENDMENT.** Subsection 5 of section 39-06.1-11 of the North Dakota
19 Century Code is amended and reenacted as follows:

20 5. The director may not issue a temporary restricted license for a period of license
21 revocation or suspension imposed under section 39-06-31. A temporary restricted
22 license may be issued for suspensions ordered under subsection 47 of section
23 39-06-32 if it could have been issued had the suspension resulted from in-state
24 conduct.

25 **SECTION 7. AMENDMENT.** Subsection 2 of section 39-16-03.1 of the North Dakota
26 Century Code is amended and reenacted as follows:

27 2. After the period of suspension ceases, an entry concerning a suspension under
28 subsection 3, 4, 5, or 6 of section 39-06-03 or subsection ~~2, 5, or 6~~ 5 or 8 of section
29 39-06-32.

30 **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE**
31 **SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT.** During the 2023-24 interim, the

1 legislative management shall consider studying the desirability and feasibility of repealing the
2 department of health and human services' ability to suspend motor vehicle licenses for
3 nonpayment of child support. The study must include an assessment of possible alternative
4 mechanisms that could be implemented to encourage compliance with an existing child support
5 payment plan. The study may include input from the supreme court, the attorney general, and
6 the department of health and human services. The legislative management shall report its
7 findings and recommendations, together with any legislation necessary to implement the
8 recommendations, to the sixty-ninth legislative assembly.

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Montana - As of 2019 legislation, the state no longer suspends, revokes, or does not allow renewal of a driver's license for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Idaho - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Oregon - Effective October 1, 2020, the state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

California - As of 2017 legislation, the state no longer suspends, revokes, or does not allow renewal of a driver's license for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Nevada - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is Not applicable.

Utah - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Colorado - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable

Wyoming - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Minnesota - Ends DLS for failure to appear in court on a petty misdemeanor parking or traffic violation or a driving after suspension ticket; Ends DLS for a conviction for driving after suspension or revocation; Ends the practice of "stacking" driver's license reinstatement fees for all except DUI-related suspensions and revocations. Suspension for failure to pay is not applicable.

Michigan - Michigan stopped suspending driver's licenses for failure to pay in all cases unrelated to the underlying offense being public safety-related. Licenses previously suspended for FTP and FTA will be reinstated without reinstatement fees. Michigan will no longer suspend a license for drug convictions and opted out of the federal requirements to do so. Suspension for failure to pay is not applicable.

Illinois - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable. .

Mississippi - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

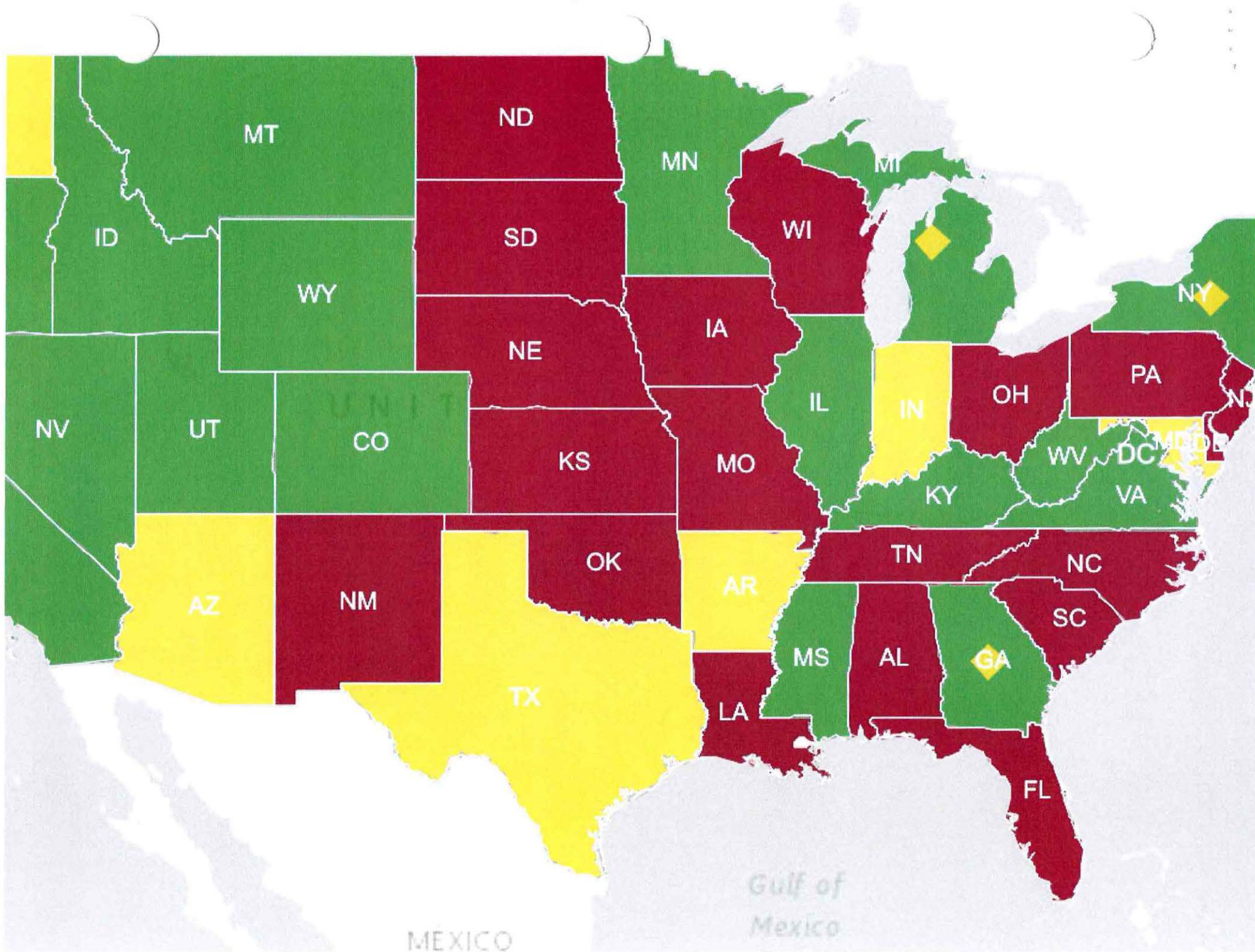
Georgia - The state does not generally suspend licenses for failure to pay fines and fees. However, they do suspend licenses for failure to pay the \$200 "Super Speeder" ticket fee. Suspension for failure to pay is mandatory.

Kentucky - The state does not suspend, revoke, and/or not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

West Virginia - The state does not suspend, revoke, nor not allow driver's license renewal for failure to pay fines and fees. Suspension for failure to pay is not applicable.

Vermont - In 2016 the state stopped suspending licenses for failure to pay fines and fees. However, Vermont continues to suspend for failure to pay fines and fees related to traffic violations punishable by points on the license. The suspensions are limited 30 days. Suspension for failure to pay is mandatory.

Maine - As of 2017 legislation, Maine does not suspend, revoke, nor not allow renewal of a driver's license for failure to pay fines and fees for criminal cases. Maine continues to suspend driver's licenses for failure to pay traffic-related fines and fees. Suspension for failure to pay is mandatory.



SB 2219

House Transportation Committee
Testimony submitted by Sally Holewa
State Court Administrator
March 23, 2023

Chairman Ruby and members of the committee, for the record my name is Sally Holewa. I am the state court administrator. The court has been asked to provide information on how many driver's licenses are suspended due to unpaid fines and fees and what the remedies are to collect those fees.

All 53 district courts and 14 municipal courts use the same case management system. This system is programmed to automatically send a notice of failure to comply to individuals who have not paid a citation within 14 days from the date it is issued. That notice provides them an additional 14 days to pay and warns that their license will be suspended if payment is not received. If we do not receive payment during that time, our system automatically sends a request to the Department of Transportation to suspend for non-payment. Upon receipt of our automated notice, the DOT also sends a warning notice and opportunity to pay the citation to the individual before actually suspending the license. With that procedural process in mind, here is the data we were able to pull for citations filed in calendar years 2021 and 2022:

In those two years, we sent DOT 33,955 unpaid bond requests (suspension requests). Of those, requests:

- 20,782 of those are now paid and a paid bond (suspension reversal) was sent to DOT
- This leaves 13,173 citations still in "suspension"
 - 7,648 of these suspensions were for a North Dakota driver's license
 - 5,525 involve out of state licenses (top 4 below)
 - Texas 775
 - Minnesota 755
 - South Dakota 416
 - California 257
- The average time between when a suspension was sent and a reversal (paid in full) happened was 76 days with a median of 27 days

- The average fine was \$53 and the median fine was \$26

Note that these suspension numbers are based on citations, not individuals. An individual could have multiple unpaid citations. Because of that, the actual number of individuals who have a driver's license suspended for unpaid tickets is something less than 13,173. It should also be noted that we can only recommend suspension for citations issued to an operator, not a passenger. It is also my understanding that the DOT does not suspend for non-moving violations. With those additional caveats, it is likely the actual number of individuals with suspended licenses due to unpaid fines and fees is substantially less than the number of suspensions requested.

The Court can only recommend suspension of licenses for unpaid non-criminal traffic violations under ch. 39-06.1 of the Century Code or unmet sentencing convictions on criminal traffic violations under NDCC 39-06-32(2). Suspensions for non-payment of a non-criminal traffic citation happen regularly and are generally short-term. Suspensions for unpaid fines and fees for criminal traffic offenses are rare and would have to be done manually. We do not have any numbers related to those.

We cannot suspend licenses for unpaid fines and fees in other types of cases. Instead, we rely on court appearances, civil judgments and tax refund interceptions to enforce payment in those cases. Because we don't capture specific data elements as to why a hearing is scheduled or the underlying charge when a criminal judgment is converted to a civil judgment. I do not have any data in regard to court appearances or civil judgments. In regard to tax interception, the average amount intercepted is \$161. The average total amount intercepted is \$147,516. We intercept around 900 refunds per year.

23.0687.02001

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2219

Introduced by

Senators Hogue, Clemens, Conley

Representatives Fegley, D. Ruby, Thomas

1 | A BILL for an Act to create and enact a new section to chapter 39-06.1 of the North Dakota
 2 | Century Code, relating to civil judgment for nonpayment of statutory fees: to amend and reenact
 3 | section 14-08.1-07, subsection 6 of section 39-06-19, section 39-06-32, subsection 4 of section
 4 | 39-06-33, subdivision i of subsection 2 of section 39-06-49, subsection 5 of section 39-06.1-11,
 5 | and subsection 2 of section 39-16-03.1 of the North Dakota Century Code, relating to
 6 | suspension of an operator's license for nonpayment of child support, the issuance of a
 7 | temporary permit, authority to suspend an operator's license for failure to pay a fine, hearings
 8 | on suspension or revocation of license, license reinstatement fees, temporary restricted
 9 | licenses, and entries on driver's record abstract; to provide for a legislative management study;
 10 | and to provide a penalty.

11 | **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 | **SECTION 1. AMENDMENT.** Section 14-08.1-07 of the North Dakota Century Code is
 13 | amended and reenacted as follows:

14 | **14-08.1-07. Suspension of motor vehicle operator's license for ~~nonpayment of child-~~**
 15 | **~~support or failure to obey subpoena.~~**

16 | When ~~considering a contempt citation against a child support obligor who is in arrears in~~
 17 | ~~child support in an amount greater than three times the monthly child support obligation and the~~
 18 | ~~obligor is not current in a court established plan to repay the unpaid child support arrears, or~~
 19 | ~~when an individual~~ has failed, after receiving appropriate notice, to comply with a subpoena
 20 | relating to a paternity or child support matter unrelated to nonpayment of child support, the court
 21 | shall determine whether the ~~obligor~~individual has a motor vehicle operator's license issued
 22 | under chapter 39-06. The court may restrict or suspend a motor vehicle operator's license
 23 | issued by the state which is held by the ~~obligor~~individual. The court shall notify the department
 24 | of transportation of the court's decision to restrict or suspend an ~~obligor's~~individual's motor

1 vehicle operator's license. An appeal by an ~~obligor~~individual who has had a motor vehicle
2 operator's license restricted or suspended under this section is an appeal from the court's order
3 and may not be appealed to the department of transportation. Except for statistical purposes, an
4 entry on the driving record or abstract of a restriction or suspension under this section after the
5 restriction or suspension ceases may not be available to the public other than by order of a
6 court of competent jurisdiction. A suspension under this section is not subject to the financial
7 responsibility reporting requirements.

8 **SECTION 2. AMENDMENT.** Subsection 6 of section 39-06-19 of the North Dakota Century
9 Code is amended and reenacted as follows:

10 6. The director may not renew an operator's license if the license has been suspended
11 under section 14-08.1-07. Upon the recommendation of the court, the director may
12 issue a temporary permit to the licensee under section 39-06.1-11 if the temporary
13 permit is necessary for the licensee to work and the court has determined the licensee
14 is making a good-faith effort to comply with the ~~child support orders~~subpoena or child
15 support matter.

16 **SECTION 3. AMENDMENT.** Section 39-06-32 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **39-06-32. Authority to suspend licenses.**

19 4. The director may suspend the operator's license of an individual, after hearing, upon
20 proof by a fair preponderance of the evidence, that any of the following apply to the licensee:

21 ~~a-1.~~ a-1. Commission of an offense for which mandatory revocation of license is required upon
22 conviction.

23 ~~b-2.~~ b-2. Incompetence to drive a motor vehicle.

24 ~~e-3.~~ e-3. Unlawful or fraudulent use of an operator's license.

25 ~~d-4.~~ d-4. Refusal to submit to an implied consent chemical test on an Indian reservation or in
26 another state. For purposes of this subsection, the specific requirements for
27 establishing a refusal used on the Indian reservation or in the other state may not be
28 considered, and photostatic copies of the records of the other jurisdiction's driver's
29 licensing authority are sufficient evidence of the refusal whether those copies are
30 certified. The suspension must be for the same length of time as the revocation in
31 section 39-20-04. If the refusal arose out of an arrest or stop of an individual while

1 operating a commercial motor vehicle, the period of suspension must be the same as
2 the period of revocation provided in section 39-06.2-10.

3 ~~2.5.~~ Failure, as shown by the certificate of the court, to ~~pay a fine or~~ serve any other
4 sentence as ordered by a court upon conviction for any criminal traffic offense.

5 ~~3.6.~~ Failure, as shown by the certificate of the court, to appear in court or post and forfeit
6 bond after signing a promise to appear, if signing is required by law, in violation of
7 section 39-06.1-04, willful violation of a written promise to appear in court, in violation
8 of section 39-07-08, or violation of equivalent ordinances or laws in another
9 jurisdiction. Upon resolution by the operator of the underlying cause for a suspension
10 under this subsection, as shown by the certificate of the court, the director shall record
11 the suspension separately on the driving record. This separate record is not available
12 to the public.

13 ~~4.7.~~ An administrative decision on an Indian reservation or in another state that the
14 licensee's privilege to drive on that Indian reservation or in that state is suspended or
15 revoked because of a violation of that Indian reservation's or state's law forbidding
16 motor vehicle operation with an alcohol concentration of at least eight one-hundredths
17 of one percent by weight or, with respect to a person under twenty-one years of age,
18 an alcohol concentration of at least two one-hundredths of one percent by weight, or
19 because of a violation of that Indian reservation's or state's law forbidding the driving
20 or being in actual physical control of a commercial motor vehicle while having an
21 alcohol concentration of at least four one-hundredths of one percent by weight. The
22 specific requirements for establishing the violation on the Indian reservation or in the
23 other state may not be considered and certified copies of the records of the Indian
24 reservation's or other state's driver's licensing authority are sufficient evidence of the
25 violation. The suspension must be for the same duration as the suspension in section
26 39-20-04.1, if the violation does not involve a commercial motor vehicle. If the violation
27 involves a commercial motor vehicle, the period of suspension must be the same as
28 the period of suspension provided in section 39-06.2-10. For purposes of this section,
29 originals, photostatic copies, or electronic transmissions of the records of the driver's
30 licensing or other authority of the other jurisdiction are sufficient evidence whether they
31 are certified copies.

1 ~~5-8.~~ Conviction of an offense under this title and it appears from the director's records that
2 the offense contributed to causing an accident which resulted in death or serious
3 personal injury or serious property damage. A suspension may not be imposed if the
4 individual has been sanctioned for the same offense under section 39-06-31.

5 **SECTION 4. AMENDMENT.** Subsection 4 of section 39-06-33 of the North Dakota Century
6 Code is amended and reenacted as follows:

7 4. If a suspension is ordered under ~~subdivision b~~ of subsection ~~42~~ of section 39-06-32,
8 the notice must include a specific description of the conditions which led to the
9 conclusion that the licensee is incompetent to drive a motor vehicle. If during the
10 suspension those conditions dissipate, the licensee may request another hearing on
11 the issue of competence to drive a motor vehicle. The hearing must be held in the
12 manner required under subsections 2 and 3 for the original suspension.

13 **SECTION 5. AMENDMENT.** Subdivision i of subsection 2 of section 39-06-49 of the North
14 Dakota Century Code is amended and reenacted as follows:

15 i. Reinstatement after suspension is fifty dollars unless the suspension was the
16 result of a suspension under subsection 3, 4, or 6 of section 39-06-03 or
17 ~~subdivision b~~ of subsection ~~42~~ of section 39-06-32, then the fee is twenty-five
18 dollars, or unless the suspension was a result of a violation under section
19 39-08-01 or chapter 39-20, then the fee is one hundred dollars.

20 **SECTION 6. AMENDMENT.** Subsection 5 of section 39-06.1-11 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 5. The director may not issue a temporary restricted license for a period of license
23 revocation or suspension imposed under section 39-06-31. A temporary restricted
24 license may be issued for suspensions ordered under subsection ~~42~~ of section
25 39-06-32 if it could have been issued had the suspension resulted from in-state
26 conduct.

27 **SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created
28 and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court may enter a civil traffic judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed. The docketing of the judgment has the same effect as the docketing of a civil judgment. The docketed judgment may be docketed in any other county in the same manner, it imposes a lien upon the real property owned by the defendant to the same extent, it is subject to the same statute of limitations, and it is enforceable by execution in the same manner as provided for a civil judgment for money.
3. The civil traffic judgment may not exceed the amount of the statutory fee owed, plus interest and any applicable penalty amounts, giving credit for any amount paid.
4. The department or the applicable city or county may seek execution and enforcement of the civil traffic judgment.

SECTION 8. AMENDMENT. Subsection 2 of section 39-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. After the period of suspension ceases, an entry concerning a suspension under subsection 3, 4, 5, or 6 of section 39-06-03 or subsection ~~2, 5, or 6~~ 5 or 8 of section 39-06-32.

SECTION 9. LEGISLATIVE MANAGEMENT STUDY - DRIVER'S LICENSE

SUSPENSIONS FOR NONPAYMENT OF CHILD SUPPORT. During the 2023-24 interim, the legislative management shall consider studying the desirability and feasibility of repealing the department of health and human services' ability to suspend motor vehicle licenses for nonpayment of child support. The study must include an assessment of possible alternative mechanisms that could be implemented to encourage compliance with an existing child support payment plan. The study may include input from the supreme court, the attorney general, and the department of health and human services. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

23.0687.02002
Title.

Prepared by the Legislative Council staff for
Representative Koppelman
April 20, 2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2219

That the House recede from its amendments as printed on page 1583 of the Senate Journal and pages 1747 and 1748 of the House Journal and that Engrossed Senate Bill No. 2219 be amended as follows:

Page 1, line 1, after "to" insert "create and enact a new section to chapter 39-06.1 of the North Dakota Century Code, relating to civil judgment for nonpayment of statutory fees; to"

Page 4, after line 24, insert:

"**SECTION 7.** A new section to chapter 39-06.1 of the North Dakota Century Code is created and enacted as follows:

Failure to pay statutory fees - Civil judgment.

1. In addition to the penalty provided under section 39-06.1-04 for failure to pay a statutory fee, the court shall enter a civil judgment against the individual for the nonpayment.
2. The judgment must be docketed by the clerk of court in the judgment docket maintained pursuant to section 28-20-13 in the same manner in which a civil judgment for money is docketed.
3. The civil judgment may not exceed the amount of the statutory fee owed, plus interest, administrative fees, and any applicable penalty amounts, giving credit for any amount paid."

Renumber accordingly