

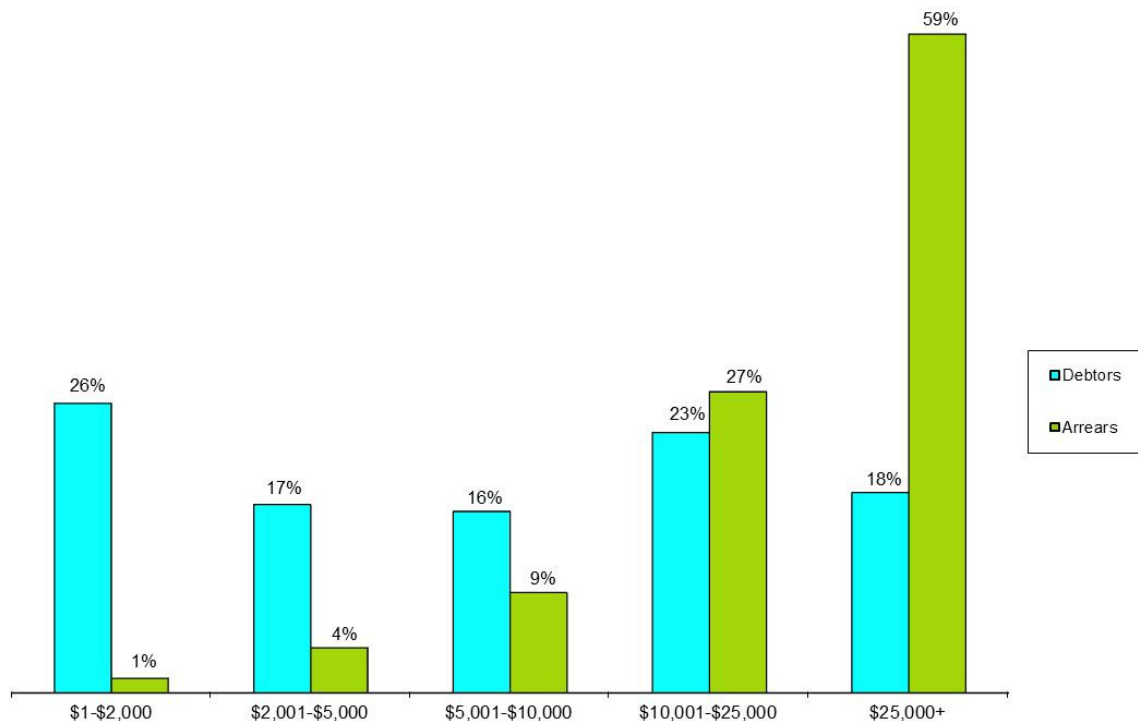


Child Support Bulletin – June 2016

Amnesty Project

The question “is the glass half full or half empty” applies very well to the payment of child support in North Dakota. North Dakota regularly ranks among the top five states in the collection of current support, with over 74% of current support being collected in the month it is due. However, at the same time, the amount of current support that is not collected on time exceeds the arrears that are collected, meaning that the statewide arrears total continues to grow. The statewide arrears balance in cases being enforced by the Child Support program is nearly \$258 million; adding the arrears in cases that are not being enforced under Title IV-D of the Social Security Act (nonIV-D cases), the statewide total arrears are \$349.4 million. There are more than 18,000 parents who owe arrears in Child Support cases.

Distribution of Debtors and Arrears by Amount of Arrears Owed



As the chart shows, many obligors are too far behind to be able to satisfy the arrears in full in one payment. Our concern is that many of these obligors are discouraged from attempting to reduce their arrears, and thus find themselves subject to enforcement actions such as contempt of court, outstanding warrants, and suspension of hunting and driver licenses and motor vehicle registrations. We believe that an opportunity for a fresh start will motivate some of these obligors to begin making regular payments toward current support and arrears. Other obligors, we feel, are content making installment payments toward the arrears through income withholding and make no additional effort to satisfy the full arrears. Therefore, for the month of June, the Child Support program is operating an amnesty project.

All delinquent obligors can participate, with Child Support generating a press release and a direct mailing to most delinquent obligors with outstanding warrants. During the project, obligors can get relief in some or all of the following 4 ways, depending on case specifics:

1. Child Support will ask the court to quash any warrant, if the obligor signs a payment plan and pays any current support for the month.
2. Child Support will reinstate any administratively suspended licenses, if the obligor signs a payment plan (no down payment is required) and pays any current support for the month.
3. Any voluntary payment toward arrears will be matched by writing off waivable interest or assigned arrears in an amount equal to 50% of the voluntary arrears payment or the total amount of waivable interest or assigned arrears, whichever is less.
4. Child Support may review the obligation upon request if warranted by certain material changes in circumstances, even if the most recent order is less than three years old and not yet eligible for a periodic review, or if the existing support order does not include a reduced obligation following the emancipation of an older sibling.

The goal of the project is not to be a reprieve for delinquent obligors, although some obligees may view the project in that way. Rather, it is a strategic approach to motivating obligors to pay more child support and to pay more often. Signing a payment plan is a key component to a request to quash a warrant or to reinstate suspended licenses because any breach of the plan in future months can lead to immediate license suspension and possible re-initiation of the contempt of court process. This provides some security for the obligation and a swift and effective response if the obligor exploits the amnesty project for immediate relief from contempt or license suspension and then does not pay in the future. The match for arrears payments incentivizes immediate payment of arrears, and the chance for an early review will lead to more realistic obligations with a better chance of sustained collections.

With regard to matching arrears payments with waivable interest, legislation was proposed in 2005 which would have prohibited the accrual of judgment interest on child

support arrears in order to slow down the increase of arrears. However, if the legislation had been enacted, obligors would have had a reverse incentive to pay other interest-bearing debts before paying child support arrears. Instead, Child Support suggested, and the Legislature agreed, that interest on all child support arrears, including unassigned arrears, should be negotiable by Child Support. This authority in N.D.C.C. § 14-09-25(8) specifically authorizes waiver of interest as part of an amnesty project. Suspending and waiving unassigned interest as a component of a child support payment plan has been a regular practice since 2005, but may prompt more requests for review by the court as a result of the amnesty project.

Please feel free to contact Child Support Director Jim Fleming if you have any questions regarding this project.