

Testimony
Interim Tribal and State Relations Committee
Representative Merle Boucher, Chairman
October 22, 2009

Chairman Boucher, members of the Tribal and State Relations Committee, I am Mike Schwindt, Child Support Enforcement Director with the Department of Human Services. I am here to provide an update of the interactions between the tribes and the state on child support enforcement services.

Current status. As members of the prior interim committee may recall, we are committed to working with tribes to provide child support enforcement services for tribal children wherever they and their parents may live.

- Three Affiliated Tribes has a comprehensive program in place which means their program has grown to where they provide the 14 services required by the federal government for a viable child support program. I am pleased that we have a good working relationship with the TAT program and, together our programs are able to provide services to families that we were not able to individually accomplish.
 - A recent example of how this cooperation benefitted a family is where we learned of a bank account on tribal land with over \$7,500 in CDs. By working with the TAT program, the arrears were paid to the family and we closed our case. Consequently, we no longer are involved in the obligor's life and the family benefitted.

- We understand the Standing Rock Sioux Tribe and Spirit Lake Nation are considering applying for start-up funding for their own tribal programs. We stand ready to assist each program should they ask for information or our assistance.
- Subsequent to the Turtle Mountain Band of Chippewa Tribal Council's resolution of a couple of years ago, we stopped appearing in tribal court. As a consequence, where concurrent jurisdiction exists, instead of being able to appear in tribal court when that is the preferable venue, we need to resort to state court since it is our only option.
- We continue to have attorneys licensed to practice in three of the tribal courts. With TAT, we are able to refer cases to their program for action. We are ready to get licensed in tribal court should that be the better alternative for providing services.
- We recently renegotiated our genetic testing contract. As part of that contract, we added new language so a tribe can purchase its own genetic testing at the state-negotiated price of \$34 per test.

Challenges. As noted before, one of our biggest challenges is the jurisdictional issue that arises between the tribes and the state in an environment overshadowed by the federal government. Again, this quite often results in decreased services to tribal kids and parents, coupled with enforcement actions that would be different if we knew the full case history.

As we gain more familiarity with and study the case law in this area, we are better able to determine whether a case can move forward in tribal, state, or in either court. As mentioned earlier, we proceed if jurisdiction is concurrent or with the state. However, if jurisdiction is exclusively with

tribal court, we look to the Standing Rock Sioux and Spirit Lake Nation tribal courts or to the TAT program for help to move a case forward. With Turtle Mountain Band of Chippewa, we have an attorney licensed in tribal court and will return to that venue when our presence is accepted by the tribe.

We continue to be concerned about the incomplete data we have on some cases. As tribal obligors retire and draw social security or other pensions, we will be intercepting these payments to apply to the outstanding arrears carried on our books. Unfortunately, in many cases, payments may have been made through tribal court or directly to the other parent but we don't know about it.

Similarly, we recently expanded our interception of federal administrative payments. Again, we will be intercepting funds to cover obligations that may have already been paid. Consequently, we have been and will be taking money from people when we shouldn't – we just don't have a full set of facts.

We will act on our best information but the outstanding balances are not subject to the statute of limitations or bankruptcies so these cases will need to be reconciled before the funds can be returned to the obligor.

That concludes my testimony. I'd be happy to answer questions.