

Testimony
Interim Tribal and State Relations Committee
Representative Merle Boucher, Chairman
September 17, 2007

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 been federally funded as a start-up project and is well on the way to becoming operational. We have participated in a series of phone calls with the Tribe and their consultants to understand each other's needs and work on solutions. I am pleased to report that we now have a signed cooperative agreement (Attachment) and continue to define the data transfer and case handling processes between the programs.
- The Tribal Council for the Turtle Mountain Band of Chippewa Indians hosted Ramsey County officials and the Department last year to discuss tribal/state interactions. I understand the Tribe has done some research to determine what changes they may want to consider in this area. Most recently, we have been in preliminary discussions with the tribal court to discuss data sharing.
- The Spirit Lake Tribal Council also extended an invitation for a meeting with Ramsey County officials and the Department last year. We recently began discussions with the tribal court on handling income withholding orders and payments through the state disbursement unit so that we can work better with customers.
- Our recent interactions with the Standing Rock Sioux Tribe have been fairly limited except for our providing payment data to the tribal court. We are hopeful that in the near future we will regularly exchange more information with the Tribe.

The Child Support program now has attorneys licensed to practice in the four tribal courts. Additionally, with the advent of state administration in

July, we are working out arrangements where the regional child support units (RCSEUs) with the tribally licensed attorneys assist with cases from the other RCSEUs.

Challenges. One of the biggest challenges for the North Dakota child support enforcement program is the jurisdictional issues that arise between the tribes and the state in an environment overshadowed by the federal government. Again, this quite often results in a decreased level of service to tribal kids and parents, coupled with enforcement actions that would be different if we knew the full case history.

We are moving ahead with case handling that recognizes the impact on jurisdiction of state and tribal courts when people move on and off the reservation. For example, last year a state court granted our motion to vacate an amended judgment after we learned that a tribal court had already assumed jurisdiction over the case and modified the original state court judgment. The goal is to make sure there is always a court available to establish and enforce child support obligations for tribal children, whether that is a state court or a tribal court. In a more recent case, a tribal court accepted a “waiver” of arrears from a custodial parent. When we informed the tribal court that nearly all the arrears were assigned to the state, the court reversed its decision and reinstated the arrears.

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 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. 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.

Working together. I'm pleased that the tribal/state child support interactions have been positive as evidenced by the signed cooperative agreement with the Three Affiliated Tribes. Later this month, Ellen Wilson, Three Affiliated Tribes Child Support Director, and I will be making a joint presentation at the Western Interstate Child Support Enforcement Council conference in Boise.

We have not reached an impasse on any point. Our goal is to work through the issues as best we can, involving the state and federal

resources at our disposal to better serve the kids and families while, at the same time, supporting each tribe wherever we are able.

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