

2009 SENATE HUMAN SERVICES

SB 2420

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2420

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 02/03/2009

Recorder Job Number: 8453, 8535

Committee Clerk Signature

*Mary K Mouson*

Minutes:

**Senator Lee** Opened the hearing on SB 2420.

**Senator John Warner** Spoke in support of 2420. See attachment #1.

**Senator Lee** Can you tell us where colleges and university fit into this?

**Senator Warner** I want to make a distinction between services offered through extension

services and this bill. This bill has to do with enhancing the earning power of payers. Many find themselves unable to pay the original settlement or their skill sets have become obsolete. They really need to get back to school.

**Senator Lee** So this is more job training?

**Senator Warner** We call it skill set enhancement, that's the fancy term.

**Senator Lee** On page 2, she had a difference of opinion about how "sides" are chosen as written in the bill. Do you agree?

**Senator Warner** Yes.

**Senator Matthern** Registered his support.

**Sherry Mills Moore** Volunteer Lobbyist with the State Bar Association in ND. We are not sure if we are opposed or neutral. Our concerns that we have are that we do not know what this bill does. We do not want to see duplication of services and a bill that is allocating money to do

something should be clearer. I did not know until we heard the testimony that this was intended to go to child support. This bill looks like it will be providing education and other services to families with children. What I want to point out is that this is already being done and if there is 150,000 dollars being spent on that, let's give that to the extension service that provides all of this kind of literature for families. Discussed some of the literature available. I hate to take focus away from programs that are already working. This also looks to me in the last sentence that this is somehow going to provide legal services to parents that do not have an attorney. We again have an agency called Legal Services Corporation already providing those services and if we have 150,000 dollars to spend, I don't want to see duplication of services. I am all in favor of helping families but I am not at all in favor of duplicating services. I think this bill needs to be a clear bill. Spoke at length about Child Support agency.

**Senator Lee** Do you see some benefit to adding a study to this bill?

**Mills Moore** Yes, I think a study would be an excellent resolution to this. There a lot of services out there and it would be helpful to coordinate them.

**Senator Lee** Do you think you could help put together everything you would like to have included in a study resolution.

**Mills Moore** Yes

**Mike Schwindt** Director of Child Support Enforcement for the DHS. Gave neutral testimony. See attachment #2.

**Senator Heckaman** What do you think about a study?

**Schwindt** I think a study would be useful to help identify some of the problems and to get this going. There are so many things that need to get done; there is no need to duplicate services.

If that is what is necessary to focus proper customer service for the 60,000 kids and 70,000 parents, let's do this.

**Senator Lee** How much back child support is owed?

**Schwindt** 280 million on the books.

**Senator Lee** Closed the hearing on SB 2420.

**Job # 8535**

**Senator Lee** Opened the discussion on SB 2420. Gave some information on personal stories of people struggling with child support.

**Senator Heckaman** Brought up the study resolution suggestion.

Discussed doing a study and how the system is set up. Talked about inputted income issues. The intern will draft and print the wording related to a study resolution. Also discussed Senator Warner's amendments. He will not fall on the sword for this bill, he would be ok with doing a study to fill some of the holes.

See additional information in attachment #3 regarding to the wording of the study and amendment. The committee discussed the proposed wording.

**Senator Lee** We are going to eliminate the appropriation and just leave it as a study. Suspended the discussion on SB 2420.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2420

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 02/04/2009

Recorder Job Number: 8696

Committee Clerk Signature

*Mary K Monson*

Minutes:

**Senator Lee** Reopened the discussion on SB 2420. The amendment will change from may to shall consider.

Discussed wording of the proposed amendment. See additional information in attachment #3.

Will include another section discussing the study the effects of the program for consumers of children and family services. This amendment will hog house the bill, include 2 studies and no money.

**Senator Erbele** I move the amendment to SB 2420

**Senator Dever** Second

The Clerk called the role on the motion to move the amendment. **Yes: 6, No: 0, Absent: 0.**

**Senator Dever** I move **Do Pass as Amended.**

**Senator Erbele** Second

The Clerk called the role on the motion to **Do Pass as Amended. Yes: 6, No: 0, Absent: 0.**

**Senator Erbele will carry the bill.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/11/2009

Amendment to: SB 2420

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed Senate Bill No. 2420 provides for Legislative Council studies relating to child support determinations of income and support obligations and the establishment of a consumers of family services program.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There is no fiscal impact relating to this bill.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Allen H. Knudson	<b>Agency:</b>	Legislative Council
<b>Phone Number:</b>	328-2916	<b>Date Prepared:</b>	02/11/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/28/2009

Bill/Resolution No.: SB 2420

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>						
<b>Expenditures</b>			\$150,000		\$150,000	
<b>Appropriations</b>						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This Bill allows the Department to provide education and other services to families in which the parents reside in separate household. Section two of the Bill requires the Department to present a report to the Sixty-Second Legislative Assembly on the use of any funds appropriated under this Bill.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section one of the Bill allows the Department to procure education and other services for families with minor children, when the parents do not reside in the same household. The purpose of the services is to assist families in amicably resolving issues pertaining to the parenting of children in a way that promotes a healthy relationship between the child and each parent.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

At this time the Department is unable to determine the amount of any potential grants or donations that may become available.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Section three of the Bill contains an appropriation of \$150,000 for the 2009-2011 biennium for the Department to use to provide education and other services for families with minor children who do not reside in the same household.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section three of the Bill contains a general fund appropriation of \$150,000 for the 2009-2011 biennium.

<b>Name:</b>	Brenda M. Weisz	<b>Agency:</b>	DHS
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Phone Number: 328-2397

Date Prepared: 01/30/2009



PROPOSED AMENDMENTS TO SENATE BILL NO. 2420

Page 1, line 2, remove "to provide a continuing appropriation;"

Page 1, line 5, remove "- Continuing"

Page 1, line 6, remove "appropriation"

Page 1, line 20, replace "are" with "must be paid to the state treasurer for deposit in the child support improvement account."

Page 1, remove lines 21 and 22

Renumber accordingly

*AB*  
*2-2-9*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2420

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for legislative council studies relating to child support determinations of income and support obligations and the establishment of a consumers of family services program.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 2009-10 interim, child support determination of income and support obligations, the feasibility and desirability of the establishment of an ombudsman program, and coordination of services and resources for parents. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 2. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 2009-10 interim, the establishment of an ombudsman program for consumers of child and family services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Date: 2-4-09

Roll Call Vote #: 1

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO. SB 2420**

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken     Do Pass     Do Not Pass     Amended     Rerefer to Appropriations  
 Adopt Amendment     Reconsider

Motion Made By Sen. Erbele    Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2-4-09

Roll Call Vote #: 2

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**

**BILL/RESOLUTION NO.** SB 2420

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number 90971.0102 Title .0200

Action Taken  Do Pass  Do Not Pass  Amended  Rerefer to Appropriations  
 Adopt Amendment  Reconsider

Motion Made By Sen. Dever Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee, Chairman	✓		Senator Joan Heckaman	✓	
Senator Robert Erbele, V.Chair	✓		Senator Richard Marcellais	✓	
Senator Dick Dever	✓		Senator Jim Pomeroy	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Erbele

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2420: Human Services Committee (Sen. J. Lee, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2420 was placed on the Sixth order on the calendar.**

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for legislative council studies relating to child support determinations of income and support obligations and the establishment of a consumers of family services program.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 2009-10 interim, child support determination of income and support obligations, the feasibility and desirability of the establishment of an ombudsman program, and coordination of services and resources for parents. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

**SECTION 2. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying, during the 2009-10 interim, the establishment of an ombudsman program for consumers of child and family services. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

2009 HOUSE HUMAN SERVICES

SB 2420

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2420

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 11, 2009

Recorder Job Number: 10661

Committee Clerk Signature

*Vicky Crabtree*

Minutes:

**Chairman Weisz opened the hearing on SB 2420.**

**Sen. John Warner from district 4, sponsored and introduced the bill:** This bill is completely different from the way I introduced it. The original bill was to give money to the Dept. of Human Services to do pilots. The Senate in its wisdom did not allow that. We need the mechanism to look at these issues related to child support and enforcement. Friction and crossover and grievances going on.

**Rep. Conrad:** The (inaudible) program is for child support. (Inaudible) problems with child support and how it is handled?

**Rep. Warner:** It has to do with as much as the nature and the level of child support (inaudible) handled by the agency.

**Chairman Weisz:** Your intent was to set up a pilot program?

**Rep. Warner:** A small pilot.

**John Ford, Executive Director of ND Coalition for CPS and Foster Care Reform: See Testimony #1. John also handed out testimony for:**

**Sheri McMahon – See Testimony #2.**

**Kim Kay – See Testimony #3.**

**Leon and Nicole Francis: Testimony #4.**

**Tara Muhlhauser, Director of Children and Family Services:** I'm here in a clarification and response category. We have a process for hearing and investigating complaints. We take phone calls, not all of the complaint nature, but we receive phone calls from parents and grandparents and we have a process that we work with in our office for those responding to the concerns they raise. I have records of documentation on complaints that Mr. Ford has made to the department and the response. Sometimes the resolution of those complaints is not always (inaudible). In other words we may not always be able to resolve it with the kind request that the person making the complaint required. We have a number of cases we look into with our process which sometimes is lengthy and sometimes short. We have a process for record requests.

**Rep. Hofstad:** Explain to me the 960 reports process. The reporting and open records issues that you have associated with those.

**Tara Muhlhauser:** The 960 reports that we receive or what we know of child abuse and neglect report, under law those are confidential reports. We can release reports to the subject of the report. Can only give reports to the person being accused. Only exception is if a public official like law enforcement wants to see the report. No citizen can get reports.

**Rep. Conrad:** Mr. Fords says there are 19 states that have an ombudsman for the foster care program. We don't have that right?

**Tara Muhlhauser:** We don't have one.

**Rep. Conrad:** How is that different from what you do right now?

**Tara Muhlhauser:** Those programs are typically located in the Governor's office or third party agency outside of state government. They would do what we would do, which is look into the



case to investigate it to look at it from all the different sides. The difference is you have people who are not immediate partners to those people who do the work.

**Rep. Kilichowski:** Mr. Ford has some allegations and the department has a procedure they go through. Would it be appropriate to ask Mr. Ford to sign a release so that we could see the process of the DHS has gone through? It would have to be in confidentiality with this committee here.

**Chairman Weisz:** Can you issue a release to make it public?

**Tara Muhlhauser:** The child is now 18 has to sign a release.

**Rep. Kilichowski:** I'm lost in the procedures here that in place.

**Chairman Weisz:** I'll look into that. I don't have an answer for that. If the committee wants additional information, I'll see if I can make that happen. Is that acceptable.

**Rep. Kilichowski:** Yes.

**NO OPPOSITION:**

**Chairman Weisz closed the hearing on SB 2420.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2420

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 18, 2009

Recorder Job Number: 11210

Committee Clerk Signature

*Vicky Crabtree*

Minutes:

**Chairman Weisz:** Let's take up 2420.

**Rep. Porter:** Motion a Do Pass.

**Rep. Conrad:** Second.

**Rep. Holman:** Just a study right?

**Chairman Weisz:** That's it.

**Roll Call Vote:** 12 yes, 1 no, 0 absent.

**MOTION CARRIED DO PASS.**

**BILL CARRIER:** Rep. Conrad.

Date: 3-18-09  
Roll Call Vote #:

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2420**

House HUMAN SERVICES Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Rep Porter Seconded By Rep. Conrad

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN ROBIN WEISZ	✓		REP. TOM CONKLIN	✓	
VICE-CHAIR VONNIE PIETSCH	✓		REP. KARI L CONRAD	✓	
REP. CHUCK DAMSCHEN	✓		REP. RICHARD HOLMAN		✓
REP. ROBERT FRANTSGOG	✓		REP. ROBERT KILICHOWSKI	✓	
REP. CURT HOFSTAD	✓		REP. LOUISE POTTER	✓	
REP. MICHAEL R. NATHE	✓				
REP. TODD PORTER	✓				
REP. GERRY UGLEM	✓				

Total (Yes) 12 No 1

Absent 0

Bill Carrier Rep. Conrad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 18, 2009 6:25 p.m.

Module No: HR-49-5290  
Carrier: Conrad  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2420, as engrossed: Human Services Committee (Rep. Welsz, Chairman)  
recommends **DO PASS** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).  
Engrossed SB 2420 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2420

#1

Senate Bill 242033  
Senate Human Services Committee  
Senator John Warner  
2 February 2009

Senator Lee, Members of the Human Services Committee,

The bill you have before you today revisits concepts that we discussed last session in SB 2207. This current proposal is an attempt to enhance the services that we offer as a state to both the payers and the recipients of services from our Child Support Enforcement Agency. The substance of the legislation is to appropriate an amount of \$150,000 to be used to enhance existing programs and to use to leverage additional federal and private sector dollars. The agency has some discretionary federal monies within its budget but the appropriation asked for here could be used in places where federal money cannot be used, as in matches for grants, small scale pilot projects and to develop and publish information that makes it easier for both payers and payees to navigate the system.

The proposed services are listed near the bottom of the first paragraph. They include

- Pilot projects involving our colleges and universities to enhance the earnings of payers so that the required, and necessary, child support payments are not such a burden.
- Improved access to customer service, including quality control and customer satisfaction measures within the department.
- Improved access to parenting information.
- Improved access to legal services for parents who do not have or cannot afford an attorney.

I should emphasize that the agency does not intend to directly provide these services; this relatively modest appropriation would not go very far in that regard and some of these services properly belong to the judicial branch. But the agency intends to use the money to leverage access to existing programs outside the usual stream of information on child support enforcement issues and to conduct small scale experiments to see how programs which have proven successful in other states can be adapted to North Dakota.

North Dakota's child support enforcement agency is known nationally as a leader in the field. I was very proud to be present two years ago in Traverse City, Michigan when our director Mike Schwindt was honored by the Council of State Governments for his award winning programs. Despite this success ,

some issues remain to be resolved. Not surprisingly, the issues differ depending on whether the complaint is coming from the custodial or noncustodial parent.

For custodial parents these frustrations include:

- Nonpayment of child support
- Nonpayment of medical costs
- Access to the courts
- Obligations set too low
- Perceptions of poor customer service from the agency

Non-custodial parents have their own set of frustrations:

- Visitation
- Access to the courts or inability to hire an attorney
- Obligation amounts and changed circumstances
- Agency attempts to make required collections under federal IV-D law which appear to side with the other party
- How the money is used
- Timeliness of services
- Medical insurance
- The increasing burden of interest charged on arrears

There is some important work ongoing at the federal level dealing with interactions between courts and foster care and child support as well as federal initiatives for increased collaboration between Child Support Enforcement, Foster Care, TANF and Medicaid.

There are also programs underway to determine if there are alternative ways to handle these types of domestic cases without involving an adversarial court process. I know from my work “just on the other side of the wall” that one of our judicial districts in the northeast corner of North Dakota is doing some wonderfully innovative work through a process called family court, using the same wrap-around concept that we are using in our other remedial justice courts such as drug courts.

The appropriation in this bill would allow Child Support Enforcement to enter into discussions and proceedings with the judicial system in search of solutions that do less to find negatives with the parents and more to find equitable and fair solutions that benefit the kids.

Finally, Madam Chair and members of the committee, I have attached to my testimony a friendly amendment. This bill as drafted sets this up as a separate fund and contains language about a "continuing appropriation." I have been informed by the department that this is not necessary. The amendment directs the money to be deposited into an existing fund called the Child Support Improvement Account which is federal incentive money that has been awarded to the state as a reward for the state meeting certain benchmarks. I have been assured that this fund has its own continuing appropriation language and that the department would have no accounting problems in preserving the separate identity of state funds within the account if there should be an occasion when a state match was required for some future grant.

This concludes my testimony and I will stand for any questions although I must confess that there are others behind me that might actually be able to provide the answers.



**TESTIMONY  
SENATE BILL 2420 - DEPARTMENT OF HUMAN SERVICES  
SENATE HUMAN SERVICES COMMITTEE  
SENATOR JUDY LEE, CHAIRMAN  
FEBRUARY 3, 2009**

Chairman Lee, members of the Senate Human Services Committee, I am Mike Schwindt, director of the award-winning Child Support Enforcement program for the Department of Human Services. The Department is neutral on SB 2420 as it is outside the Governor's budget.

The Child Support Enforcement program has made great strides in recent years in reaching out to our customers and in providing customer service. We will continue those efforts using the resources contained in the Governor's budget.

We know that we do not know all the answers for improving our services so that we can better serve our customers, many of whom are in an economic or emotional crisis.

Should the Legislature choose to approve and fund this bill, we would use the resources to look at alternative ways to improve the interactions between the parents and the program. We would also look for solutions that may be offered to parents in addressing the issues they may be facing.

Thank you. I would be happy to answer questions.

PROPOSED AMENDMENTS 2420

Page 1, line 2, replace "to provide a continuing appropriation;" with "to provide for a legislative council study;"

Page 1, line 5, remove "-Continuing"

Page 1, line 6, remove "appropriation"

Page 1, line 20, replace "are" with "must be paid to the state treasurer for deposit in the child support improvement account."

Page 1, remove lines 21 and 22

Page 2, removes lines 4 through 8

Page 2, after line 3 insert "the legislative council may consider studying child support determinations of income, support obligations, the possible establishment of an ombudsman program and coordination of services and resources for parents. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-second Legislative Assembly.

Renumber Accordingly

2420

Study resolution

Whereas, children whose parents do not live together may be harmed by continued conflict between their parents, and

Whereas, many organizations and agencies provide services to these parents, and

Whereas, coordination of these services helps to preserve resources and enhance the services for these children and their parents,

Now Therefore, let it be resolved

That the Legislative Council study how to best coordinate and enhance the resources of those who provide education or services to children whose parents do not live together, or those children's parents.

**BE IT FURTHER RESOLVED**, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Sixty-second Legislative Assembly.

#1

Chairman Weise, and committee members, for the record, I am John Ford, Executive Director of the North Dakota Coalition for CPS and Foster Care Reform. I am here today to offer testimony on SB 2420. I am also submitting written testimony from several members of our coalition who can not be here today.

I originally offered this testimony to the Senate Human Services Committee on SB 2396. As a result of that testimony, the Committee included our request for an ombudsman as a Legislative Council Study in SB 2420 First Engrossment.

A bit of my family's history is necessary in order for this committee to truly understand the importance of having an ombudsman's office created to provide families, particularly those of lower income or poorly educated, assistance when their rights are violated or the reunification efforts required by law are ignored by DHS or the county social services agencies.

We relocated to North Dakota after adopting two special needs children. The youngest had become involved in Hispanic street gangs in Los Angeles and we had to place her in a psychiatric residential treatment center prior to coming to North Dakota. This child was diagnosed with the relatively rare diagnosis of Reactive Attachment Disorder in addition to a host of other DSM IV disorders, and approximately 4 months after moving to Rugby we found ourselves with the local social services agency involved in our life. After ending up in a major power struggle with a know-it-all social worker with major control issues, my wife and I found ourselves charged with child deprivation and subject to a CPS Assessment that found "services were required". After changing the allegations against my wife and I several times, it was finally determined that we were "psychologically maltreating" our child because we were preparing to return her to the residential placement she had previously been placed at and had had successful treatment for her disorders. The child was placed in the custody of the local social services agency and we began a long, uphill battle to first, have our child receive the necessary mental health services she needed, and secondly, to clear our names and overturn the CPS findings.

In spite of the records and history of mental health issues regarding our child and provided to them, the social services agency and DHS refused to provide the child with the services we were demanding. Both agencies determined that this child had no mental health issues other than an adjustment disorder. We finally convinced the juvenile court to allow us to obtain an independent evaluation and after a complete psychological evaluation, the PHD psychologist concluded that this child did indeed suffer from all the mental health issues we had insisted she had been diagnosed with.

Rather than place the child in a RTC which the director of the North Central Human Services Center agreed was the appropriate course of action, the child was placed in a PATH foster home. During her stay there we suspected that the child was running wild, and she in fact was. We demanded drug testing for the child, it was refused. We suspected that she was keeping late hours and using drugs or alcohol based upon her performance at school and her defiant attitude. We finally confirmed that she was indeed using drugs and alcohol and was trading sex for these chemicals with two older adult males that lived upstairs from the PATH foster home she was placed in. We demanded placement changes and other services, but according to the case manager the custodian didn't want to upset PATH officials as

she was afraid she would have no placement for the child. This child was allowed to maintain a webpage on myspace.com, that was inappropriate by anyone's standards and she was maintaining an on-line relationship with an adult male who had posted on his myspace.com page some of the most disgusting pornography my wife and I had ever seen. While the Custodian ordered the child's MySpace page to come down, my wife and I were told we were over reacting. Two days later sexual predators on MySpace made national headlines. The Custodian ignored our question of were we over reacting now?

In January of 2006, we convinced the Juvenile Court to order the child be placed in a RTC. The Court also found that reunification efforts hadn't been in place for a little over a year. This is of interest since a district court judge had found that reunification efforts had been attempted. Why the discrepancy? Was the social worker who testified lying, or was the district court judge not educated in what constitutes reunification efforts? In any event once again, our state system failed. I would also like you to note that while we proved to the court that this child was deprived while in the custody of the county, the States Attorney advised the Court that he wasn't seeking a deprivation finding against the county, so the Court wasn't able to consider the issue.

Beginning in October of 2005 and extending through January of 2006, we were connected to the Fargo School Districts Parentconnect, a web based service to advise parents of their child's failing grades. During this period we received 179 fail notices. The case manager for PATH advised our county social services agency that the system was flawed and we provided e mails from the system administrator and teachers that confirmed the information we were receiving from ParentConnect were correct. The custodian took no action to insure the child's educational needs were being met. The child also was tested for an IEP. We were told the testing showed this bright child to have a 3<sup>rd</sup> grade reading level and minimal math skills. Later testing at the RTC showed the child with above average IQ and skills. The child was "drunk" during the testing in Fargo. In the end, it was determined by DHS and the Social Services Agency to return the child to the gang and drug infested environment that the child was originally removed from. Shortly after arriving, she became pregnant and is currently living in a single room with a ten month old baby on public assistance, with no prospects, no hope and little future. This child NEVER received mental health services for her disorders.

In addition, after over 18 months and \$10,000 in legal fees, we were vindicated and the CPS findings were overturned.

I could take up hours of this committee's time with endless accounts of neglect, violations of reunification laws, politically influenced CPS investigations and poor mental health services for our children under the control of DHS. However, I will take a few moments to cite the failures of some other families and children who have turned to our coalition for support:

- 1) Child's foster placement (foster mother was an RN) changed against advice of pediatrician who treated child for chronic health condition. Reason for changing placement was to "avoid bonding" so the child could be adopted (foster parents were not offered supports to adopt a medically needy child and faced limits on family health insurance). The pediatrician

warned that the child risked death if placement was changed. The child died after being moved to the new placement.

2) Teen mother with infant admits to substance abuse; child enters foster care, mother promptly enters CD treatment and makes extraordinary progress in treatment and other areas such as education, housing, employment. County disregards reunification plan and attempts to terminate parental rights anyway. Mother eventually prevails, but child remains in foster care 18 months longer than needed. It needs to be noted here that DHS convinced the Administrative Rules Committee to approve 75-03-14-04. Qualifications of persons residing in the home.

1. A person residing in the home, except a foster child or ward of the court, may not have a present condition of substance abuse or emotional instability. No person may smoke, in the foster home, in circumstances which present a hazard to the health of a foster child. All foster parents should be aware of the potential hazards of smoking in the presence of children, particularly infants and children with respiratory or allergic sensitivity. If a condition of substance abuse or emotional instability occurs in a foster home at a time when a foster child is in placement, every effort should be made to keep the placement intact if the resident of the foster home is seeking treatment for the problem. No further placements will be made until successful completion of the treatment has occurred. A resident of a foster home, who has a past condition of substance abuse or emotional instability, should have had no incidents of substance abuse or emotional instability for a period of at least twelve months prior to licensure.

This is of great concern as NDCC 27-20-02 (8) (g) legally defines this as a deprived child and the child will always be removed from its natural home. Why then is DHS making rules to allow them to pay foster homes to keep our children in deprived households?

3) Child in residential treatment--licensing violations concerning seclusion and restraint surface among overall concerns about child's care. Custodian fears RTC will discharge child and no placement will be available, so does not address issues. Parent obtains DHS response to violations, but abusive practices continue until child is discharged. RTC does not allow child off-site visits to see his terminally ill father, stating, "Family issues are not the child's issues." RTC requires child to participate in evangelical religious activities contrary to family religious beliefs and practices.

In this case, I personally spoke with Julie Leer about the issue and she asked me to have the parents call her. Three calls from the parents went unreturned by Ms. Leer.

4) Stark County parent reports that when she surrendered custody so her child could

receive mental health treatment, caregivers "didn't have time" to bring him to therapy. Later, county decides to place child with mother's ex-husband, who has a history of DUI and unstable behavior. The child dies in a car accident when the father swerves his vehicle into the path of another vehicle, killing the driver of that vehicle as well. A few weeks later, the father commits suicide.

5) An 18 year old Fargo youth is discharged from foster care once funding is no longer available. This youth had serious mental health issues and is now living on the streets of Fargo with no educational or employment skills after spending 6 years in the foster care system.

6) In April of last year, I learned that DHS was housing a high risk 17 year old sex offender at DBGR in a group home setting. Both Ms. Leer and Paul Ronningen testified to the Administrative Rules Committee that this individual, Brynner P. Rennecke, was determined not to be a risk, and yet on his 18 birthday he was transferred to YCC and is now presently incarcerated at the State Hospital in Jamestown. On the day Title IV-E funding was no longer available for this individual he was determined to be a threat to society.

7) In Pierce County, Child Protection Services are politically controlled. Boyd Wilkie pled guilty in the District Court to charges of GSI and Continuing Sexual Abuse of a Minor. Wilkie sexually abused his step daughter for 6 years culminating in her becoming pregnant at age 14. After Mr. Wilkie was arrested, I received calls from two Rugby residents upset because they had filed reports of suspected abuse of this child about a year earlier and no investigation was done. I attempted to get 960 reports for statistical analysis and research, but DHS refused my request. I did bring this to Ms. Leer's attention but once again, but there was no followed.

8) On March 30, Lori Voeller is going on trial for 6 counts of Child Abuse or Neglect in Pierce County. One again, there were 4 prior reports of suspected abuse regarding Ms. Voeller and her day care center but no investigations. It wasn't until a Rugby Police officer's child was involved that there was an investigation. I again sought data on the 960 reports that should have been filed, but Ms. Leer cited DHS policies that prevented me from obtaining the information. DHS has a bill currently pending seeking authority under the NDCC to control who and what constitutes research.

These are just some of the 100's of abuses that families and their children suffer from through illegal acts at the hands of DHS and County Social Services Agencies. We are strongly urging this committee to pass SB 2420. Parents and their children have little recourse for abusive practices by these agencies. Complaints to DHS are often ignored or referred to be handled internally by the outside agencies. Even petitions filed with the Attorney General's Office under NDCC 54-12-03(3) are ineffective for any action to be taken to have these violations investigated. The only other option is to file a civil suit. Unfortunately most large law firms have Special Attorney General's on staff creating a conflict of interest and out of state attorneys are not allowed to practice in North Dakota, even on a limited basis. The other option is to file a complaint with the Board of Social Worker Examiners, but I have personally reviewed a report

filed by Chip Ammerman, Director of Cass County Social Services of a complaint that included over 100 violations of the Code of Ethics. Mr. Ammerman's conclusion was that while there were technically violations of the Code of Ethics, every social services agency engaged in the practices so there really wasn't a violation. How absurd is this conclusion. It is clear from all the documentation I have that DHS and social workers can't police or investigate themselves.

There are 19 states with an ombudsman's office for parent's rights in foster care. This is a logical step for our state: an independent office with the power to bring DHS and county social services agencies to court if they violate a child or parents rights. North Dakota is ranked 9<sup>th</sup> in the nation for children in foster care per capita. Our children are 6 times more likely to end up in foster care than any of these 19 states. Children living at the poverty level are shuttled into the foster care system at one of the highest rates in the country, 43.2 per 1000. These are not statistics to be proud of by any stretch of the imagination. Unless we find ways to insure that DHS and the county social services agencies comply with the law, all the wrap around services and the Family Impact Initiative are useless. There must be measures to protect families and insure that their rights are protected.

I have a substantial amount of documentation to support the cases I have described here this morning. While many of our families and children wish to remain anonymous due to their fears of retaliation from DHS or the agencies that will effect reunification efforts, many are willing to speak with any committee member openly. In an effort to protect the confidential records of some of the children, I would be happy to allow any member of the committee to review records that support the allegations made here today in a confidential setting.

On behalf of the North Dakota Coalition for CPS and Foster Care Reform and all our members, I thank you all for allowing me to present this testimony on SB 2420 and ask that you send this bill to the full house with a "do pass" recommendation.

John Ford  
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For CPS and Foster Care Reform  
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#2

To: Members of the House Human Services Committee

Testimony by Sheri McMahon (717 7<sup>th</sup> Avenue North, Fargo, ND 58102) Regarding SB 2420

I thank the members of the committee for this opportunity to explain why I support SB 2420

From 2000 to 2003, my family was involved in the child welfare system in North Dakota, not by choice. Initially, this came about when I disputed decisions made by my son's school related to his special education services, a right I did have under federal special education law. I believe the school district and other agencies used the child welfare system as a hammer in order to impose their own points of view on my family. Although I eventually established through special education procedural safeguards that my concerns had a valid basis and got my son home again, we were put through upheaval as my son was taken from my home without warning, without a court order, and without meeting Century Code requirements that a law enforcement officer determine he was in danger. I lost my employment and, eventually, my apartment. At that point child welfare authorities became involved again because I lacked adequate housing and because my son was a "child with special needs." My son entered foster care again, and this time it took nearly two and a half years to bring him back home. In essence, my son's childhood ended at age 11.

There is not enough time or space here to discuss all the bad decisions that were made by the multitude of individuals and agencies involved in my son's life during that time. At one point, I was working with the Department of Education Office for Civil Rights, because he was denied special education services the entire time he spent in foster care. The OCR field investigator put it aptly: "there's just too many fingers in his pie." Incidentally, OCR had reached the point of preparing to proceed to resolve what they determined to be a valid complaint under Section 504—and then they had to stop. Why? Because the foster care system moved my son to a different placement outside his home school district. Under OCR rules, the proceeding stopped, even though the home district remained responsible for his education. Incidentally, my son moved through four different placements while in foster care, and each time his placement changed, another process to obtain the special education services he needed was halted and had to start over in the next placement. As a result, he received no special education services while he was in foster care—he was deprived of the services he needed at a critical age. The last year he received an appropriate education was 5<sup>th</sup> grade.

My son was placed in a residential treatment center in 2002-2003. The treatment center, in writing, refused to disclose any information to me about my son's care—although the county custodian signed a release authorizing me to receive this information, the treatment center simply disregarded her authorization. They also imposed unusually strict limits on contact. One possible reason: in 2000 the same organization provided shelter care to my son for a month. Concerns arose: he was confined to his room for three hours if he did not eat everything on his plate, he had a bleeding rash on his wrists that went untreated, and he contracted a skin condition that was also not treated and later turned out to be ringworm. He was also confined to his room if he did not participate in religious activities that were not consistent with our family's religious beliefs. I had complained about these issues—and I know specific

religious denominations are central to the provider's mission. At any rate, they obviously did not like me, and this was a possible reason.

The county caseworker we had then was one of the few people who really treated me like a parent. She was very uncomfortable with the treatment center demands—but if she didn't go along with them, they were going to refuse placement. She begged me to agree, saying, "if you don't, I'll have to quit my job"—she did not mean that literally, but she was distressed by the situation. There was no pretense of a team or family-centered approach to treatment by the residential treatment center. We had monthly treatment team reviews—and I was told these reviews were not for the purpose of asking questions or making any changes, they were review—period.

Within a few weeks, I was concerned that the treatment center was often using physical restraint and locked seclusion on my son but not reporting these incidents as required. The use of seclusion and restraint became a very serious concern over several months. I had to go to many agencies to address this: DHS which confirmed there were licensing violations, JCAHO which accredited the facility and had previously required the provider to correct similar deficiencies, Protection and Advocacy which could only refer me to SEHSC regarding possible institutional child abuse after my son started showing up with cuts and bruises, and SEHSC after the P and A referral. I also contacted other agencies and organizations for information.

The treatment center director, who was hostile to me to begin with, was furious after being contacted by DHS about licensing requirements. She said, "I don't like getting calls from DHS." She was no longer allowed to withhold copies of the treatment plan and she had to start sending me incident reports. A letter was also sent out to all parents regarding seclusion and restraint policy along with SEHSC contact information should a parent wish to report suspected violations. JCAHO's three-year accreditation survey was also done while my son was at the center, and JCAHO found deficiencies in seclusion and restraint practices once again. As for the institutional abuse investigation, I was never told the outcome. Recently, my son—who is now 19—requested those records. We were very surprised to discover that, although a multidisciplinary team makes the decision on such an investigation, the treatment center director was allowed to act as a member of that team. Incidentally, although there had been licensing and accreditation violations, and although there was no doubt about excessive use of restraint and seclusion, the multidisciplinary team decided that licensing issues and disagreements about treatment do not constitute institutional abuse. Yet I know children who have been removed from their parents after a single occurrence of the minor bruises my son received repeatedly in the treatment center.

My lawyer also helped obtain a court order for independent psychological evaluation of my son's needs and the treatment he received. By then my son had been in the treatment center for more than 7 months. The independent evaluation concluded my son's treatment was inappropriate and likely to be detrimental, and also that he had deteriorated likely as a result of inappropriate treatment. For a child in the care of his parents, this would be considered "psychological maltreatment." Since he was in foster care, it was simply "disagreement about treatment." By then, he had been discharged months earlier than planned—I believe this was only because I managed to bring pressure on the treatment center

from several directions. The PATH home to which he was discharged never had any reason to restrain him or lock him in a room.

A police officer I spoke with in 2004 told me she had long suspected physical and psychological abuse at the treatment center and had made reports to SEHSC—only to get the same response—that these were “treatment issues,” not abuse or neglect issues. A juvenile public defender told me he saw many youth coming into juvenile court with charges centered around the youth being placed in seclusion—and that, finally, a juvenile referee had had some things to say about that.

My understanding is that there have been changes in seclusion and restraint practices over time, and I can only hope this is true. But my point is not seclusion and restraint in treatment facilities per se. It is the fact that I had to spend countless hours researching, making phone calls, writing letters, and knocking on one door after another to address just one problem. I saw a lot of turf and job protection, a lot of bureaucracy, a lot of power. I heard the court say they would not “micromanage” the custody of my child. I heard the lawyer say, “this is an administrative issue, not a legal issue.” I heard the caseworker say, “there’s only so much I can do.”

When my son did come home, he had to sleep with the light on for months. Otherwise he would wake up in the night and think he was still in a foster home somewhere or in the treatment center.

I want to add one more issue about the treatment center. They, not the custodian, decided what kind of visits we would have. We were allowed two ten-minute phone calls a week, monitored by treatment center staff, and one hour-long visit supervised by the county caseworker—the treatment center said, in writing, that the county could not substitute any other designee. My husband was seriously ill. He was only able to manage two onsite visits. I did notice that seclusion and restraint episodes tended to peak when my husband and I made trips to Rochester, MN, for medical care—suggesting that worry over his dad’s condition was a factor in how my son functioned in the treatment center. In any event, there were no holiday visits because the caseworker didn’t work holidays. There was no visit Thanksgiving 2002. There was no visit Christmas 2002. My husband died September 13, 2003—and there would be no more Thanksgivings or Christmases.

In 2001, I was part of a focus group that met in Washington, D.C., under the auspices of the Georgetown University Technical Assistance Center for Children’s Mental Health, which subsequently published “A Family’s Guide to Child Welfare” using input from such focus groups and other resources. In January of this year, an article I wrote about my family’s experience with foster care and special education was included in the 6<sup>th</sup> edition of “Exceptional Lives,” a special education textbook whose co-authors include Rud and Ann Turnbull, of the Beach Center for Disability at Kansas University in Lawrence, KS. I have been in contact with parents and professionals around the country working with child welfare, some working for child welfare reform, for several years now. I can tell you that as the system has exploded in recent decades, grassroots movements are growing. On my own, I have met several families in North Dakota who have been involved with child welfare and have worked closely with a number of them. Over and over, I see certain critical needs: the need to give more than lip service to parents’ roles when a family is under investigation or receiving child welfare services, the need for parents who have been

through the system to impact the system's policies, and the need for someplace to go when child welfare agencies fail to respond to parent concerns, when they make mistakes and bad decisions, and when issues extend beyond the scope of any one agency. We need someplace to take those issues the lawyers say are "administrative issues." And we need more accountability, more light shining on the child welfare system.

You will have received the story of one family I have been working with for several months. She has a child who is institutionalized—North Dakota institutionalizes its foster children at more than twice the average national rate. Relying on county testimony, the court found that the child had received DD services in an effort to avoid removal. In fact, the county did not refer the child for eligibility determination for DD services until it had had custody of the child for 22 months. This child, who has a severe speech impairment, could speak fluently if he had a special device which can be covered by Medicaid—but the county has not pursued the steps needed to authorize payment for the device. The family has Native American roots, but the child has not been allowed the opportunity to observe spiritual traditions he grew up with—because the treatment center where he lives does not allow those traditions on its property and has ignored requests for him to attend functions where he could participate in the spiritual traditions he knows. The child was handcuffed and taken into custody because of missing school—even though North Dakota law does not permit a child to be arrested for truancy. Although the attendance issues were related to homelessness, the family had never been referred to the school district's homeless liaison for assistance. Although his mother has had stable housing for nearly a year and a half—which, possibly along with specialized community services the child might qualify for would likely resolve the school attendance problem—it is simply easier for the county to continue on the same course of institutionalization than to change course. I see this over and over—family situations do change, but too often the child welfare system puts on a set of blinders and is unable to change its direction even though the family has changed theirs.

Another parent lost custody of her infant son after testing positive for illegal drug use. She promptly entered treatment with resounding success—but in spite of her success and a permanency plan identifying reunification as the goal, the county saw the foster parents as the ideal family for the baby, possibly assumed the mother would fail, and pursued termination. Since the county did not have a good basis for terminating parental rights, the mother eventually regained custody—but only after a legal battle that ultimately kept the child in foster care a year and a half longer than necessary. Imagine the strength it took this young mother to not only overcome chemical dependency, complete a GED, and get her own housing and a fulltime job for the first time, but to maintain those achievements while enduring the long separation from her child and the legal battle to become reunited—and stay clean and sober throughout. When the mother defeated the TPR petition, the county had the good sense to change caseworkers—because the caseworker initially assigned had put on the blinders and never taken them off.

An effective ombudsman program could provide perspective and technical assistance in situations such as these. When the child has disability needs, he or she may require specialized services that are not included in the generic programs Child and Family Services offers—and because specialized services often involve complicated rules administered by other programs, Child and Family Services caseworkers

may need technical assistance a good ombudsman program can give so the services are delivered. According to the Administration for Children and Families, Title IV-E requires states to provide fair hearings to resolve disputes about services and case plans—but I have never seen any evidence such a process is available.\* An ombudsman program could provide an avenue to resolve those disputes and, if need be, refer them to a fair hearing process.

\*There is an administrative appeal right regarding “services required” decisions, and parents are notified of that right. They have little time to file a request for appeal, get no assistance, and often have no access to records that may be critical to an effective appeal. This is the only notice parents ever receive of any right of appeal or fair hearing regarding Child and Family Services decisions. At one point, I requested an administrative hearing to gain access to residential treatment center records, but the response was that there was no right of appeal of the treatment center’s refusal to provide them. Their refusal may have been a HIPAA violation, but if so I didn’t get any information how to make a HIPAA complaint. Eventually the treatment center destroyed most of its records concerning my son.

#3 Kim Kay

My son John was 11 when he started displaying aggressive and oppositional behavior. We had a family helper from Stark County Social Services in Dickinson. His name is Rick Haugen. He came to my house for a family meeting in December 2001 and while Rick was there John attempted suicide. Rick said he would try and help me get John into a psych ward to help him, as he really needed the help. John was ADHD with Oppositional Defiance. We couldn't find one I could afford. Rick said that Stark County wanted custody of John and I didn't want to give up my son so I said no. From January till the end of February he would tell me I needed to give up John. In February he told me that his bosses, Larry Bernhardt, and Deb Trytten said that if I didn't give up John they would take away both my sons. (I had a younger son who was 7 at the time). I got more scared and finally on 20 March 2002 I gave temporary custody of John to Stark County Social Services that had promised that if I gave up John they would get him into St Alexis Children's Psych Ward. The day of court on 21 March, after getting custody of John Deb Trytten said that St Alexis didn't have a bed available so they were sending him to Eckert Youth Homes in Williston, ND. While John was at Eckert, Thomas and I got to have unsupervised visits. When he graduated from the 6<sup>th</sup> grade Carrie Kovash of Stark County said that John would be returning to Dickinson so I could have more visitations with him but that it was their practice not to let the child come straight back home that he would have to live in a PATH foster care for awhile. During this whole time John was suppose to have gotten treatment but Carrie said they didn't have enough time when John was in Williston. John went to live with UV and Sylvia Schlieper in Dickinson and I had to have supervised visitation with John at Family Connections starting with a half hour a week. In September 02 in a meeting with Larry Bernhardt and Deb Trytten they point blank told me they would make sure John never came home to me that they were going to start a home study and have John placed with his biological father in Mesa Arizona. Up until this point I had been told by Carrie Kovash that the goal was for us to be reunited as a family. I balked at the idea and they required me to undergo psych evaluations but at no time did they allow John, me and Thomas to be together unsupervised or in any family counseling. John ended up with a Guardian Ad Litem, Jeff Rotering, who talked to me once in the presence of a lady who was trying to help me, Kathy Quitain. He talked to my mother, who basically despises me, John's father, Sylvia and Carrie Kovash but refused to talk to whom I asked him to talk to, giving him names and phone numbers to people who knew me and how I was with my sons. On the 11<sup>h</sup> of Dec 02 I was told John was going to Arizona to spend Christmas with his father and upon his return we would get to celebrate his 13<sup>th</sup> birthday supervised of course at Family Connections. I'd gone along with everything they told me to do, even not being able to talk to my son at his football games. But my parents who have 3 counts of child abuse against them got unsupervised visits. Then on 2 Jan I called Carrie Kovash, and she said the home study on John's father showed favorable and he wasn't coming back to ND. I asked for the home study and got a lawyer. My lawyer had to subpoena the courts to get the home study and then was allowed only 95% of the home study done by an independent company, Southwest Human Development. The rest was refused as it was damaging against my ex husbands current wife, Molly. The home study showed my ex John McCarty dad been investigated by Adult Protective Services in 95 for molesting a nursing home patient where he worked. Investigating results were not included. John McCarty admitted being arrested 3 Nov 95 in Mesa for DUI when he crashed a car. He lost his license for 3 mo and required to attend substance abuse class. I was allowed 15 to 30 min supervised phone calls with my son until his death. I had gone to court in May trying to get custody of John back. They had 180 days to comply with the court decision. My ex crashed his car on 6 July 03

and killed my son. I didn't handle the death very well and ended up in the hospital. I was out 2 weeks when Stark County Social Services took away my son Thomas, who was 9 then, stating he was deprived but by law didn't have to say or prove what he was deprived of. They stated in court that if custody of Thomas was given to Jennifer and Jay Jahner they would leave Thomas and me alone. So, afraid that I would never get to see Thomas again, that they would do to Thomas what they did to John, I signed. I found out in 2005, after repetitive requests for my sons records from Stark County Social Services, that when they took Thomas they had been in contact with Jennifer who wanted custody of my son. They had Thomas held at St Alexis psych ward for a week while they were doing the paperwork. The Doctor there even told Deb Trytten that there was nothing wrong with Thomas and that they were not a holding place. I also found out that my son John had been living with his step mom Molly at the time of his death. She had left him because of child abuse and other reasons and Stark County Social Services was well aware of it. I wasn't allowed to see my son Thomas except through supervised visitation at Family Connections till May of 06, when his guardians got divorced. As it is he lives with Jay a week and the Jennifer a week. Jennifer works for a lawyer and told Thomas, Jay and me that if I see Thomas only on her weeks she would have Thomas lost in the Social Service system and we would never see Thomas again. Jay, his guardian father allows me visitation, which I visit unsupervised every chance I get and 2x in 2008 I got a week. There is no recourse in ND law on how can I get my son back. If he was in foster care, they would have to renew it every year, but there isn't if guardians have custody of him. I hope this information helps. Kim Kay

#4

Our family was completely RENT by Cass County Social Services Jan-26<sup>th</sup> 2007. We feel that an emergency situation was essentially "created" by a Social worker at this agency whose attitude toward us was 'How dare you, you will be punished'. Our family would ask of anyone so empowered to investigate C.C.S.S. in regards to but not limited to these issues :

1. Due process issues
2. Indigent defenders who are ignorant as to case law, statutes, and Federal laws, statutes and standards as they pertain to the Families case
3. Civil Rights Issues
4. Retaliation by this agency when parents question methods or assert rights
5. Lack of accountability when rights are violated
6. Forcing services that are not welcomed or needed
7. Agents intentionally misstating laws and statutes
8. Use of Peace officers as "enforcers" even when no law has been broken or court order/warrant issued

We feel that our families story is not singular in nature . We think that the slights and injustices suffered by us happen much more than the public is aware of. We would beg that you review our story, and consider all those Families with similar stories who may not have the voice or opportunity that we are blessed with.

Our Family also feels that there is a disconnect between the forward thinking, good hearted citizens of Fargo and Moorhead, and the government agencies put in place to protect them. Agencies that routinely commit civil and human rights abuses via policies and practices that create an atmosphere that is inherently adverse to basic human, civil, and parental rights for a class of citizens who for the most part, are not able financially to not only see to it that those rights are granted, but that they are recognized and assured.

Leon Francis

There is no system ever devised by mankind that is guaranteed to rip husband and wife or father, mother and child apart so bitterly than our present Family Court System."  
Judge Brian Lindsay Retired Supreme Court Judge

#### The Physical

I don't think that I have come across a truer statement. Especially one that so completely embodies the ordeal suffered by my family last year. You see, we were introduced to Cass Counties idea of what a (good) family is and should be, along with a list of services and suggestions that they felt would be helpful in (correcting) our much to moral based, outdated mode of thinking. We learned, in the harshest manner possible, that compliance was not only expected, but required and assured by force if necessary. (please visit this site [www.xanga.com/kelseyport101](http://www.xanga.com/kelseyport101) ) What happened to my husband was incorrigible to say the least, the only thing that gives us any solace is the fact that residents of Cass County absolutely do not agree with these agencies' pattern of practices, we know this from speaking to them directly, and the sound judgment shown by the jurors at his trial.



Cass counties use of forced compliance was physical with my husband, they took a much different approach with me.

### The Mental

It started at the school, where an officer and a social worker, after speaking to Leon and I, decided to pull me aside and offer me protection from Leon, running the gamut of chauvinistic and racial stereotypes, and asked on more than a couple of occasions if I needed help in leaving and even going so far as to ask whether or not I would consider leaving if it meant that I would be able to keep the kids. This was very upsetting given the fact that I had absolutely no intention of leaving either. I was told by the social worker that she too (again she assumed that I must be) was a victim of domestic violence and knew how hard it could be to stand up to and or leave the abuser. The officer proceeded to inform me that even if it wasn't recent, even if he (he being my spouse) had shaken or choked me, that they could have charges imposed, the implication being if I wanted him gone, they could make it happen. I repeatedly informed both that I was fine (present circumstances notwithstanding) and only wished to go home with my family intact. We were permitted to leave only after signing what we later found out to be a very unconstitutional, handwritten document, swearing off a number of our parental rights. They made the choice very easy, our children or our signature.

The next day the nightmare really began. After some discussion, we decided to have the children seen by their doctor in west Fargo. We thought that given the circumstances, this course of action would be to everyone's benefit. We could not have been more mistaken ([www.kqlaser.blogspot.com/](http://www.kqlaser.blogspot.com/) )

I received the call from Leon's brother Lionel sitting at my desk at work. I could hear my children screaming in the background and crying hysterically. My heart stopped as Lionel, as calmly as he could under the circumstances, informed me that Leon had apparently been arrested, and the children were in the process of being taken away as wards of the state!!! Just like that, my whole family was gone. A feeling of utter hopelessness set in as realization dawned, everything that I loved and cared for in this world was gone and there was nothing that I could do about it.

Cruff, Stanger and Torgerson drew on my despair and again offered me a way to get at least part of my family back. I met with them in a back room at the Cass County Annex where again the sentiment was posed whether or not I would be willing to leave Leon if it meant getting the children back. I was appalled and said as much. I also expressed our belief that their treatment of us was totally unwarranted predicated mostly on race. They of course quickly denied this and changed the course of the conversation. Stanger chimed in " your husband is as strong as an ox, I had to strike him a few times to get him to comply with us" he obviously thought that I knew about what had taken place in our (1/26/2006) bedroom, and I DID NOT. You hit him!!!? I asked, shocked beyond words I could only watch as they passed nervous glances between themselves. I managed to calm myself and once again found voice enough to ask to see the warrant or court order so as to know what exactly we were being charged with and why Leon was arrested, Donnette Torgerson (the social worker ) quickly changed the subject again. "Were you aware that Leon kept the children out of school today?" She asked. "Of course I am" I replied, and explained the reason. Again I asked what crime my husband was charged with, and was told "resisting arrest" when I asked (yet again) what he was being arrested for, no one had a cogent response { he was being arrested for resisting arrest} and around that logic went.

And this nightmare continued to get worse. Even though neither my husband nor I were ever charged with hurting our children, Cass County Social Services forced us to endure a cadre of slights and humiliations including staged hearings where despite the facts, we had no hope of reunification with our children. During an exhausting four month ordeal, we found out just how resourceful Cass County could be when they put their minds to it. They attempted everything from attempting to sabotage our therapy sessions, to trying to turn us against each other ( they would tell Leon that I HAD and was saying things that I had not, and would tell us that our children were saying things that we knew they hadn't like they did not want to come home). They even went so far as to tell us that if we would just plead to a lesser charge, or if my husband would simply admit to being abusive, even if it wasn't recent, that they would basically leave us alone, once again showing that they cared nothing for the welfare of our family, or the well being

of the children as their mantra implies, but were much more concerned with covering up the enormous mistake that they had made, and thus justify the horrible abuse my husband suffered at their hand.

Needless to say, our children have suffered a severe psychological blow. In addition to our youngest son's two discolored front teeth, whenever we would attempt to leave him ( with his grandmother, or daycare, or pre-school) he would become extremely agitated, hysterical to the point of hyperventilation, afraid that 'i f we left, he would never see us again and have to live with strangers', to use his own words. Although we had and continue to have a strong family, our bonds have become strained. Trust issues are a big thing now, conflicts in doing what we feel is best for our children and the very real fear that our safety and freedom may be at stake if exercise our parental rights looms ominously whenever tough decisions have to be made. We feel that there is something very wrong here, criminal even. No one, not even a state ( state actors to be fair, because the state does not agree {see Raboni vs State of North Dakota } should hold such power. The power to render useless God and Country given rights to raise children free from Government interference in the way that the individual parents see fit. And no one should live in fear should they exercise those rights!

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