

Committee Speech

Good Morning Madame Speaker, Committee Members,

My name is Paul Schumacher. I am not a public speaker, I am not a lobbyist, nor am I affiliated with an advocacy group. I am an obligor who is forced to deal with the state agency known as child support enforcement.

A few months ago, I sent every state legislator a letter concerning the unacceptable actions of child support enforcement. I trust that you all read that letter, but for those who may not have read it, I will briefly summarize. I adopted my wife's sons in July 2009, and their father was several months behind in his payments. It took him several months to pay off his arrears after the adoption was finalized. Right before Halloween of 2009, my wife received a deposit in her bank account for the full amount of child support expected every week. My wife was not notified with any communication from child support that the arrears had been paid and the case was closed. Therefore she assumed there were still arrears to be paid when she got the deposit and she moved the money around like she always does. Two days later, child support enforcement took the money back out of her account causing her to overdraft and racking up \$90 in NSF fees. When my wife called child support to ask the fees be reimbursed, she was told "it's not our job to monitor your bank account" and "you weren't authorized to receive the funds." IT IS the job of child support to monitor where and when the funds they receive are deposited upon obligees. If my wife wasn't authorized to receive the funds then how did they end up in her bank account? Another question to bring up is how can child support legally enter into someone's bank account and remove money without notifying them of the withdrawal? Someone clearly fell asleep at the wheel.

Next I would like to show you a release of authorization form filled out by my wife. This form was sent to child support to authorize a state legislator, who was willing to look into the case, to receive information about my wife dealings with child support. My wife got the form back in the mail with a green post-it note saying "we have no open child support case." I ask you all, is this considered an appropriate form of communication from a state agency? I feel this only adds to my letter that I sent stating that child support has gotten lazy. While I understand the situation has been addressed, I feel that you all needed to be made aware of how child support communicated to my wife in an unprofessional and unacceptable manner. I can't imagine that my wife is the only person that has received post-it notes back in the mail from child support.

Next I would like to speak to you regarding a case in which credits against arrears were applied to case for daycare expenses. I have here a document of from case # 09-05-C-

02777 State of North Dakota vs. Gabel signed by the honorable Douglas Herman of Cass County District Court. The highlighted points of this case that I would like to call your attention to are #3 findings of fact and #4 conclusions of law. (read case facts and conclusion of law) Mr. Gabel was given credit against his arrears for direct support payments made over a 4 month period. These direct support payments were made to a license daycare facility that Mr. Gabel's former child attended. This document was prepared by and agreed upon by Cass County State's Attorney Adair Boening. How does this relate to my case? From Sept 2007 – Jan 2008 I made payments directly to a daycare provider in support of my daughter's attendance in a licensed daycare facility. I was not granted credit for my payments made because child support attorney Jackson Lofgren stated that they payments that I made to the daycare were not considered applicable under Century Code. According to him, the payments I had made were not allowed to be deducted from my arrears when the order was entered. I made the mistake of not going to court and asking the judge to reconsider the stipulation. I signed the document and it became an order. After I had learned that I should have asked the judge for relief, child support enforcement attorney Shelia Keller refused to hear my grievance at the final child support hearing stating that the order was already entered into judgment because I had signed the document stipulation previously.

So I ask you, how can this be fair? How can a child support attorney in one county support and agree to an arrears credit while another child support attorney denies the same request? How can a judge in one county sign a stipulation allowing an arrearage credit but another parallel judge deny the same request? It is clear to me that no one is on the same page. The century code regarding child support is too loosely defined and their attorneys are applying different stipulations in the same types of cases. How can the same stipulations be allowed in 2005 and denied in 2008 when the century code changed? The only thing that was different between my case and the Gabel case was the county, presiding judge and year in which it took place. He was given credit against his arrears and I wasn't.

The previous case I have described to you would not be the last time the child support enforcement made mistakes involving my case. In 2009, child support enforcement attorney Shelia Keller made noticeable error when calculating my ex's imputed income support obligation. (read Shelia Keller's post trial brief) Based upon this serious clerical error, the child support enforcement attorney nearly had me paying \$50 a month more. An amount that would have been incorrect, but nevertheless, entered into judgment. Child support would have asked me to pay for their mistake. I'm glad that I went before the judge and had my own representation to support the evidence to prove the child support attorney's mistake. Needless to say, I will never sign a stipulation without first seeing the judge. Child support has proved to me that their interpretations of the child support guidelines are not the same as

the judge's interpretation. Their attorney's make mistakes at the penalty of the obligor, but not themselves.

I am also here today to talk about the current child support guidelines and how tremendously one sided they are. I currently have joint custody of my daughter. She spends one week with me, the next with her mother. But I still pay child support. In fact, I pay as much child support as a parent who does not see their child or merely has weekend visitation. The reason I pay so much child support is because of how the guidelines are currently written and applied in joint custody situations and offset calculations. I have a good paying job. I work just a few feet from this very room. My daughter's mother does not have a job. In fact, she has not had a verifiable or steady income since 2005. Her part time imputed wages from 2006 are well below her earning potential and thus I am forced to make up the larger offset difference because she refuses to get a job. While she continues to live off her child support, welfare, food stamps, WIC, & Medicaid government support, her ex husband, whom she currently lives with, pays for the house and the utilities. Why are there not any calculations being done on obligees live in family members or significant others? I have to provide my daughters mother with money to buy food, clothing, and supplies, while I have to provide the same materials for my daughter, at the same cost, while my daughter is with me for the week. It is an absolute atrocity to believe that it costs me \$300 a month to support my daughter while she spends half of the month with me. I also find it hard to understand that her income will forever be imputed at the lowest income earning potential possible while I have a good job with opportunities for advancement and salary increases. This means my support payment will only go up in the future and her already imputed income will remain stagnant. Again, I must ask how is this fair? She is being rewarded for not getting a job, while I am being penalized because I have a good job.

What is the penalty for an obligor who doesn't pay their child support? The obligor loses their license, is reported to the credit bureaus, and they could end up in jail. What is the penalty for an obligee who does not abide by a court order for visitation and residential responsibility? There isn't one. While it can take months or even a year to get in front of a judge for a contempt of court order, the obligor still pays child support, while the obligee receives child support but still withholds the child. I had to pay the full amount of child support every month while my daughter was held hostage against me for nearly a year. I largely missed out on the first year of my daughter's life because her mother refused to allow me to see her, but still paid my child support. This situation happens more often in this state than you think. Child support seems to believe that paying child support and getting visitation with a child are two separate things. Why can't child support enter an order for child support and visitation rights at the same time? I was under the impression that this agency was about

helping children and families. If this agency were really about helping children and families, child support would be doing that now.

The playing field here needs to be leveled and fairly distributed to all parties involved in dealing with child support. I personally am not asking for special treatment with regards to my case. I can't imagine that I am the only person in the state these types of problems have happened to. Some of my ideas for change to provide more fairness and equality to all parties involved are:

1. If an obligee doesn't abide by a court order for visitation, child support payments are suspended. It also shouldn't take months of paperwork and hearings to accomplish this.
2. An order to pay child support should include a visitation order for the obligee in most cases.
3. Child support should be cancelled in joint custody situations unless substantial salaries of 6 figures or more are involved.
4. If an obligor doesn't pay child support, an order for visitation is suspended.
5. If an obligee has live in family members or a significant other the income of the entire household should be calculated.
6. Stop reporting obligees with automatic arrearages to the credit bureaus. Give them a chance to pay or setup a payment plan. (I realize this is controlled Federally)
7. Stop sending non-payees of child support to jail or suspend payment requirements until they are out of jail. It only further adds to the problem. If they are in jail, they can't pay child support, while the arrearages keep increasing.
8. The ability to change a child support order should not be such a painful process of waiting on courts for months or even years. Child support has a duty to make sure that every case is up to date at any given time, not just every 3 years.
9. Give more training to the child support caseworkers on dealing with difficult and emotional situations. The caseworkers default answer needs to change from "there is nothing I can do for you" to "here's what I can do for you."
10. Last but not least, stop treating all obligors like deadbeats.

In closing, let me make it clear that I am not calling for an end to child support. I agree fully that parents need to be held accountable for their actions and be responsible for their children. Child support can only push someone so far until that person starts pushing back. I am pushing back. I am calling for a change in Child Support Enforcement. The system is severely broken and in desperate need of overhaul.