

Testimony
House Bill 1085-Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman
January 5, 2011

Chairman Weisz, members of the House Human Services Committee, I am Jennifer Barry, Early Childhood Services Administrator with the Department of Human Services. I am here today to provide you with an overview of House Bill 1085. The Department supports passage of this bill.

Section 50-11.1-07.8 of the North Dakota Century Code gives the department the authority to suspend an early childhood services license, self-declaration, or registration document during an investigation of a report of child abuse or neglect at the premises of the program or of a staff member. The passage of this bill would extend the circumstances for which the department has the authority to suspend an early childhood services license, self-declaration, or registration document when continued operation would jeopardize the health and safety of the children present, specifically in incidents involving child protection investigations or direct bearing offenses.

Subsection 1 of Section 50-11.1-07.8 provides a change to the language used to refer to the suspension of a license, self-declaration, or registration document when child protective services investigates an early childhood services program or a staff member. The current language gives the department authority to suspend only during an investigation of child abuse and neglect. The department is requesting a change in language recognizing that it may be appropriate and sometimes necessary to extend a suspension past the close of the child abuse and neglect investigation, depending on the findings of the investigation, to protect the health and safety of the children

in care. If the department issues a revocation of a license, self-declaration, or registration document, that operator is allowed to continue the operation of the program during the appeal process, unless the department has issued a suspension. The current language limits the suspension period to the time that the child abuse and neglect investigation is taking place. If the investigation results in a "Services Required" finding, the department would likely determine that continuing the suspension during the appeal process of the revocation would be in the best interests of the children in care.

Subsection 2 of this bill gives the department the authority to suspend a license, self-declaration, or registration document if an operator, holder of a self-declaration, registrant or household member of an individual providing child care in their home has been charged with a direct bearing offense or if a minor child in the household is brought before the juvenile court because of a direct bearing offense. The department has identified a need to extend the authority of the department to issue a suspension in instances where the facts surrounding the charge of the direct bearing offense provide evidence that the health and safety of the children present are in jeopardy.

An incident occurred last year in a licensed child care program that prompted this request for legislative change. A provider left her child care children unsupervised in the care of her teenage son. During this time, her son sexually assaulted one of the child care children. After the victim reported the assault, the teenage son admitted to police that he had sexually assaulted the child in his care. A suspension and revocation of the child care license were issued. The provider appealed the revocation decision, and a hearing was set for several months later. Once the child abuse and neglect investigation was complete, the suspension was no longer in effect, allowing the provider to continue to provide care, pending the

outcome of the revocation hearing. The teenage son who assaulted the child is still residing in the home. The department has requested the changes in subsection 2 of this bill to allow the department to continue a suspension when the department determines that the facts surrounding a charge for a direct bearing offense provide evidence that the health or safety of the children in care are at risk.

Finally, the changes being made in subsection 5 of the bill provide that a suspension, including one as described above, may prohibit an early childhood program from continuing to operate pending an appeal.

Thank you for consideration of my testimony, and I ask for your support on House Bill 1085. I am available to answer any questions you have.