

**Testimony**  
**Engrossed Senate Bill 2072 - Department of Human Services**  
**House Judiciary Committee**  
**March 10, 2015**

Chairman Koppelman, and members of the House Judiciary Committee, I am Cindy Marihart, Director of the Aging Services Division, for the Department of Human Services (Department). I am here to testify in support of Engrossed Senate Bill 2072, which was introduced at the request of the Department and was amended to address the North Dakota Banker's Association's concerns regarding section 3 of the Bill.

Section 1 of the Bill amends N.D.C.C. section 50-25.2-01 to create consistency; the proposed language reflects what Protection and Advocacy uses for a definition of "exploitation."

Section 2 of the Bill amends N.D.C.C. section 50-25.2-03 to exempt law enforcement officers and agencies from being required to notify the Department of alleged abuse or neglect of a vulnerable adult if an individual in the custody of law enforcement is alleged to have caused the abuse or neglect of another individual in the custody of law enforcement. Currently, the statute requires law enforcement to report these allegations to Vulnerable Adult Protective Services; however, law enforcement agencies have their own internal review process in place to address allegations of abuse between people in their custody. This change would allow law enforcement agencies to use their existing review process without having to duplicate efforts by also reporting under section 50-25.2-03.

Currently, the Department can access all the records of the vulnerable adult either with the consent of the vulnerable adult or the caregiver or legal representative of the vulnerable adult, or without consent if the vulnerable adult lacks capacity to consent and does not have a legal guardian or other legal representative. Section 3 of the Bill amends N.D.C.C. section 50-25.2-05 to allow the Department to obtain records from the custodian of records of an alleged vulnerable adult, without consent, to conduct an evaluation or assessment. For a vulnerable adult protective service worker to determine if a person is truly a vulnerable adult, the worker must have access to the records the worker determines appropriate. The records continue to remain confidential under N.D.C.C. sections 50-06-15 and 50-25.2-12.

The amendment adopted by the Senate requires state and federal chartered banks to provide access to the department or the department's designee to all records of an alleged vulnerable adult to the extent permitted by state or federal law. State and federal law permit the Department to obtain records from state and federal chartered banks with a consent or subpoena.

This concludes my testimony and I would be happy to answer any questions.