

**Testimony**  
**Engrossed House Bill 1210 –Department of Human Services**  
**Judiciary Committee**  
**Senator David Hogue, Chairman**  
**March 16, 2015**

Chairman Hogue, members of the Committee, I am Shari Doe, Director of the Children and Family Services Division for the Department of Human Services (Department). I am here today to provide information on Engrossed House Bill 1210.

The Department did not take a position on House Bill 1210 as introduced.

If Section 1 of Engrossed House Bill 1210 is only applicable to North Dakota Century Code (N.D.C.C.) Section 27-20-13, taking a child into custody, the Department does not believe it would impact the placement of foster care youth or Title IV-E funding. The Department reads the language “a court order transferring a child into custody shall provide a reasonable period of time to facilitate a beneficial transition for the child and other parties involved” to not apply to temporary custody orders that are issued by the director of juvenile court, as they are not court orders. If this interpretation is correct, Section 1 of Engrossed House Bill 1210 would not impact the process of obtaining a temporary custody order from the director of juvenile court. If the Department's interpretation is not correct, Section 1 would limit the ability to immediately obtain the custody and control of an alleged deprived child pursuant to the temporary custody order process set forth in subdivision h of subsection 1 of section 27-20-06 of N.D.C.C. This would place children at risk.

If Section 1 of Engrossed House Bill 1210 is intended to require transition time between a court’s order to temporarily transfer the child's legal custody

and actual transfer of the physical custody of the child, unless the child is in immediate danger, the Department has the following concerns relative to the impact of that section in foster care situations:

A temporary custody order issued by the director of juvenile court as discussed above is valid for 96 hours after the initial removal. Within those 96 hours, a shelter care hearing must take place if the child is to remain in protective custody. Reasonable notice, either oral or written, stating the time, place, and purpose of the shelter care hearing must be given to the child and, if they can be found, to the child's parents, guardian, or other custodian. At the shelter care hearing, the court will make a determination whether it is contrary to the welfare of the child to return home. When the court determines that it is contrary to the child's welfare to return home, the court will issue a shelter care order transferring the temporary custody of the child to the county agency. If a shelter care order is granted, the county agency, working through the State's Attorney, has up to 60 days to arrange for a deprivation hearing.

A child who is currently in his or her parent's, guardian's, or custodian's home also may be ordered by the court into protective custody when the county agency determines the child, in his or her present circumstances, is a "deprived child" under N.D.C.C. section 27-20-02. To obtain an order to place a child into protective custody, the county agency will work with the State's Attorney to file a petition for deprivation while the child is in the home of the parent, guardian, or custodian. The child and the parent, guardian, or custodian of the child are parties to the deprivation hearing. A hearing is held and the court will determine that it is contrary to the welfare of the child to return home and place the child in the county agency's

custody, or it will determine that transfer of custody to the county agency is denied.

If the court places the child in the county agency's custody, Section 1 of Engrossed House Bill 1210 would require the court to consider a "reasonable period of time" for the transition when doing so would keep a child in harm's way after the court has transferred custody to the county agency and has determined that it is contrary to the welfare of the child to remain in the home of the parent, guardian, or custodian. This puts children at risk.

Finally, Section 1 of Engrossed House Bill 1210 would impact Title IV-E funding. To access federal Title IV-E funding for the care of the child, federal rule requires the judicial determination that results in the child's removal to coincide with the action to remove the child. If a court orders transfer of custody for the welfare of the child, custodians must immediately place that child in a safe and secure setting. Title IV-E funding could not be utilized if the court provides a "reasonable period of time" under Section 1 of Engrossed House Bill 1210.

The Department asks Section 1 of Engrossed House Bill 1210 be removed from the bill.

Mr. Chairman, I'm happy to answer questions you may have.