

Testimony
Engrossed Senate Bill 2100 – Department of Human Services
House Human Services Committee
Representative Clara Sue Price, Chair
March 13, 2007

Chair Price, members of the House Human Services Committee, I am Tara Lea Muhlhauser, Deputy Director of the Children and Family Services Division and Program Administrator for Child Protection Services, of the Department of Human Services. I am here today to provide you with an overview of Engrossed Senate Bill 2100. The Department supports passage of this bill.

Child Protection Services, under the authority of NDCC chapter 50-25.1, is the program that provides the institutional infrastructure for child abuse and neglect reporting, prevention, assessments, decisions, and services for abused and neglected children and their families in the state. County Social Service agencies and their staff provide the actual direct protective services to protect children in each of the communities in the state.

In Federal Fiscal Year 2005, we received 3,956 reports of child abuse and neglect, involving 6,972 potential victims. This is a number that has remained steady in the past five years. Of the total number of reports received, 792 cases involving 1461 victims received a "Services Required" determination. A "Services Required" determination indicates the presence of safety issues and risks that are addressed through services and referral to the Juvenile Court for consideration of legal action.

The bill before you today proposes changes to the current law which will allow for greater clarity, efficiency, and more comprehensive protection for children. In addition, I have an amendment to offer.

Section 1 concerns definitions. We are asking that employees of public or private schools be removed from the "caregiver" definition. This would mean that Child Protection Services would no longer conduct Child Protection Assessments when the reported abuse or neglect involved a teacher or school employee and a student. Schools have their own processes in place for investigation of these incidents and we believe it is an issue best addressed by school administrators, School Boards, law enforcement, and parents. In addition, Child Protection Services has no real authority to enforce any recommendations or decisions made by local Child Protection Teams. The Juvenile Court has no jurisdiction in cases when the parent is not the alleged subject of the abuse or neglect, thus we are not able to enforce protective arrangements for children.

Also in the definition section, a change is made to bring the definition of "abused child" within the existing definition of "child abuse and neglect" in NDCC 14-09-22 - Abuse or Neglect of a Child-Penalty (referencing definitions in the criminal code section 12.1-01-04 as cited in NDCC section 14-09-22(1)(a)). Also, this amendment would bring "sexually abused child" within the definitions currently found in NDCC chapter 12.1-20; the Sex Offenses chapter of the North Dakota Century Code. This will provide greater clarity as there will be one universal definition of child abuse and neglect. This change also removes the definition of "harm" as it is no longer needed to define "child abuse and neglect".

Since its inception, Child Protection Services in North Dakota, and nationally, has relied on the statutory distinction of the professional “mandated reporter”. This bill proposes adding a couple categories to the list of mandated reporters. School personnel, school bus drivers, and foster parents are requested additions because they have significant contact with children on a daily basis. Veterinarians are also proposed because of the clear link research has established between animal maltreatment and child maltreatment. This research is quite new and has been the basis for twenty-two other states adding this or similar categories of personnel in the animal care profession to their lists of mandated reporters. Juvenile court personnel, probation officers, and division of juvenile services employees have also been added.

Section 3 of the bill proposes some clean-up language to 50-25.1-03.1 to clarify that a child is not the “subject” of a child abuse and neglect report; a person suspected of abusing or neglecting a child is the subject.

Section 4 proposes to add school counselors and division of juvenile services staff to the list of those responsible for providing information to the coroner or the child fatality review panel so that Child Protection Services and the Child Fatality Review Panel are able to do more thorough work on cases where there has been a child fatality.

Section 5 provides Child Protection Services with the authority to refer reports involving school personnel (in keeping with the change in the first section) to the requisite school board and school administrator.

Finally, Section 6 of this bill proposes that the Department be given the legal authority to protect the identity of not only persons reporting child abuse and neglect (which already exists), but also persons supplying information for the child abuse and neglect report or assessment. These folks are often referred to as “collateral contacts” by social workers. These collateral contacts can be unwilling to become involved or provide information because the Department can offer them no assurance that their identity will be protected when the completed assessment report is given to the subject of the report. This will give the Department greater authority to protect the identity of people willing to share information with social workers as a part of the assessment process.

One additional issue; I offer an amendment to ESB 2100 that allows information sharing between the Department’s Human Service Centers and local county child welfare agencies who are conducting Child Protection Services Assessments as authorized agents of the Department. This proposed language is needed to clarify and allow information sharing, in light of federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements.

Thank you very much for the opportunity to appear in support of this bill today. I am available to answer any questions.

PROPOSED AMENDMENT TO ENGROSSED SENATE BILL NO. 2100

Page 1, line 2, after "50-25.1-04.4", insert ", 50-25.1-05"

Page 1, line 6, after "welfare", insert ", information available for use in assessments"

Page 5, after line 22, insert:

"SECTION 5. AMENDMENT. Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05. Assessment. The department, in accordance with rules adopted by the department, immediately shall initiate an assessment, or cause an assessment, of any report of child abuse or neglect including, when appropriate, the assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.

1. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department and an appropriate law enforcement agency shall coordinate the planning and execution of their investigation efforts to avoid a duplication of factfinding efforts and multiple interviews.
 - a. The department or the law enforcement agency may refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services.
 - b. The department or appropriate law enforcement agency may interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator.
 - c. The department or law enforcement agency may conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.
2. Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional human service center shall disclose to the department or its authorized agent, upon request, the records of a patient or client which are relevant to an assessment of reported child abuse or neglect."

Renumber accordingly