

**HB 1094 – Department of Human Services  
House Human Services Committee  
January 12, 2009**

Chairman Weisz and members of the House Human Services Committee, I am Julie Hoffman, Administrator of Adoption Services for the ND Department of Human Services. Thank you for the opportunity to provide testimony for HB 1094. The Department supports a do pass on HB 1094.

This bill is being introduced at the request of the Department in order to comply with a new federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351) signed into law by President Bush on October 7, 2008. This new piece of federal legislation has been described by national child welfare advocates as being the most significant piece of child welfare legislation in ten years, or since the Adoption and Safe Families Act was passed in 1997. I am attaching a summary of this legislation that will provide a broad overview of the provisions of this law.

In general, this law will help children and youth in foster care by promoting permanent families for them through relative guardianship, adoption and by improving education and health care. It provides an opportunity for Indian Tribes to directly access Title IV-E funding and provides additional supports to older youth by extending federal support for youth in foster care and adoption assistance to age 21.

Some of the provisions of the new federal law are options that the state may or may not implement, some are requirements, and one is a grant opportunity. PL 110-351 provides for varying implementation dates, however, most of the requirements in the law had an immediate implementation date (the date of the President's signature) unless statutory

changes were required. The bill that you have before you addresses a number of requirements in this new legislation that the Department believes require statutory changes in order to fully implement.

Sections One and Two of HB 1094 address the issue of sibling placement in foster care and adoption. By policy, the Department has long supported that siblings should, whenever possible, be placed together when they are removed from their parental home. These sections would amend NDCC 27-20 to require a finding by the court of reasonable efforts to place siblings together, both at the point of a dispositional hearing and at the yearly permanency hearing. This finding would require the custodian to make reasonable efforts to place siblings removed from their parental home in the same foster care, relative, guardianship or adoptive home unless it was determined that it is contrary to their safety or well-being. It would also require the court to find, for those siblings not able to be placed together with their siblings, that reasonable efforts had been made to provide for frequent visitation and other ongoing interaction between the siblings. The emphasis is on maintaining connections between siblings who have been removed from the care of their birth families and placed into foster and/or adoptive care.

Section Three is a notice provision. This section requires the legal custodian of a child removed from his or her parents, to provide notice to certain parties within 30 days of the child's removal. Specifically, it requires notice to all parents and grandparents, and any other relative the parents or grandparents identify. An exception is made for documented family or domestic violence. The notice requirement also specifies what information must be provided in the notice and includes:

- That the child has been removed from the custody of the parent;

- What options the relative has under federal, state and local law to participate in the care and placement of the child, and what options may be lost by not responding;
- Describes the requirements to become licensed to provide foster care, and what supports are available for children placed in the home; and
- Describes how the relative may enter into an agreement to receive a subsidized guardianship payment.

The federal law does not define a relative for the purposes of this notice provision, but left that to the states. In this bill, we drafted the definition of relative for the purpose of notice narrowly so as to make this doable for the legal custodian, while still maintaining the intent of the law. The federal law did specify the contents of the notice as detailed in this bill.

Section Four of the bill will allow the Department to approve the placement of a sibling group of more than four children to be placed together into one foster home, even when there are other foster children placed in that home. Currently, a custodial agency could not place a sibling group into a foster home that already had a child or children in placement, if the total number of children were more than four. This would allow the Department to make an exception in that rare circumstance and positively impact our ability to place siblings together in the same home.

The Department supports a do pass on HB 1094. Thank you for your time today and I would be happy to try to answer any questions you might have.

## **Fostering Connections to Success and Increasing Adoptions Act (PL 110-351) Summary**

The Fostering Connections to Success and Increasing Adoptions Act (originated as H.R. 6893 and is now PL 110-351) will help hundreds of thousands of children and youth in foster care by promoting permanent families for them through relative guardianship and adoption and improving education and health care. In addition, the bill provides, for the first time, many American Indian children access to important federal protections and support. The bill also provides additional supports to older youth who reach the age of majority without a permanent family by extending federal support for youth to age 21.

H.R. 6893 was approved by the U.S. House of Representatives on September 17, the Senate on September 22, 2008 and was signed by the President on October 7, 2008.

1. **Connecting and Supporting Relative Caregivers – H.R. 6893 will help more vulnerable children who are in foster care or at risk of entering foster care stay connected with relatives through the following supports:**
  - Federal subsidized guardianship program - offers federal support to children who leave foster care to live permanently with relative guardians. In order to be eligible, the child must be in the care of the relative caregiver who is a licensed foster parent for a period of at least six months, and the state must document why adoption or reunification is not appropriate for the child. Children fourteen and older must be consulted about the kinship guardianship arrangement and siblings may be placed in the same home and receive support even if some of them are not otherwise eligible. Kinship guardianship payments cannot exceed foster care maintenance payments. In addition, the state must provide post permanency supports including medical care for the child, and payment of nonrecurring expenses related to obtaining legal guardianship. Payments may continue, at state option, until age 21 (or age 19 or 20) if the guardianship agreement was entered into when the child was age 16 or older;
  - Notice Requirement – states must provide relatives notice when children are removed from their parents’ homes, giving them an early opportunity to be involved in caring for the children. States must “exercise due diligence” to identify and provide notice to all adult grandparents and other relatives within 30 days after the removal of a child from the parent’s custody (subject to exceptions for family or domestic violence);
  - Kinship Navigator programs to help relatives connect the children with the services and supports they need. H.R. 6893 provides \$15 million for each fiscal year (2009-2013) for a competitive grant program for “family connection grants” that can be used for any of four purposes including a kinship navigator program – of which \$5 million is reserved for such purposes. The remaining \$10 million can be used for navigators, intensive family finding, FGDM, or residential family treatment programs.

- Separate Licensing Standards - takes steps to address non-safety licensing requirements that create barriers to children living with relatives in foster care. H.R. 6893 codifies existing HHS guidance allowing states to waive certain non-safety related licensing standards on a case-by-case basis. These standards include things like square footage requirements and minimum numbers of bedrooms or bathrooms per person. It also requires the Department of Health and Human Services (HHS) to submit a report to Congress within two years that examines state licensing standards, states' use of case-by-case waivers, and the effect of the waivers on children in foster care, reviews the reasons relative foster family homes may not be able to be licensed, and recommends administrative or legislative actions to allow more children to be safely placed in foster care and be eligible for federal support.

2. **Provides Additional Support to Older Youth and Increase Their Opportunities for Success by:**

- Continuing federal support for children in foster care after age 18 H.R. 6893 allows states, at their option, to provide care and support to youth in foster care until the age of 19, 20, or 21, provided that the youth is 1) completing high school or an equivalency program; 2) enrolled in post-secondary or vocational school; 3) participating in a program or activity designed to promote, or remove barriers to, employment; 4) employed for at least 80 hours per month; or 5) incapable of doing any of these activities due to a medical condition. The protections and requirements currently in place for younger children in foster care would continue to apply for youth ages 18-21. These youth could be placed in a supervised setting in which they are living independently, as well as in a foster family home or group home. States could also extend adoption assistance and/or guardianship payments on behalf of youth ages 19, 20, or 21.
- Helping older youth successfully transition from foster care to independence H.R. 6893 requires child welfare agencies to help youth make this transition to adulthood by requiring, during the 90-day period immediately before a youth exits from care at 18, 19, 20, or 21, the development of a personalized transition plan that identifies options for housing, health insurance, education, local opportunities for mentoring, continuing support services, work force supports and employment services.

3. **Grants Tribes Direct IV-E Access** - The bill ensures that Indian tribes have direct access to IV-E funded programs, including the foster care and adoption program as well as the newly proposed Child and Family Services Program, Subsidized Guardianship Program and Permanency Incentive Program. The bill also provides financial resources directly to Indian tribes to provide technical assistance and start up costs associated with implementation. **G**

4. **Improves Education Outcomes for Children Who Live in Out-Of-Home Care** - by **I**

improving educational stability and ensuring seamless educational transitions for children and youth when school changes do occur through the following:

- Improves educational stability for children and youth in foster care by requiring states to - ensure that placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement. H.R. 6893 also requires that the state child welfare agency coordinate with schools to ensure that child remains in the school in which the child is enrolled at the time of placement as long as it is in the child's best interest. In addition, the bill increases the amount of federal funding that may be used to cover education-related transportation costs for children in foster care.
  - Promotes seamless educational transitions for children and youth when school changes do occur by requiring states to - ensure that, in cases where remaining in the child's school is not in his or her best interest, the child is immediately enrolled in a new school and that the child's educational records are provided to the new school.
  - Provides for required educational attendance by requiring the state to ensure that every school-age child in foster care, and every school-age child receiving an adoption assistance or subsidized guardianship payment, is enrolled as a full-time elementary or secondary school student or has completed secondary school.
5. **Promotes Coordinated Health Care for Children in Out-of-Home Care** - requires that states develop a plan for the oversight and coordination of health, mental health, and dental services for children in foster care. The plan must include an outline of how the state will schedule and conduct health screenings, how health needs identified through such screenings will be treated, how medical information will be updated and appropriately shared, ensure continuity of services, and provide oversight of prescription medications.
6. **Expands and Improves Adoption Assistance Programs** –
- De-links a child's eligibility for federal adoption assistance payments from outdated AFDC income requirements. The expansion of children eligible for federal adoption assistance payments will be phased in over nine years, with older children and those who have spent at least 60 consecutive months in care, and their siblings, being eligible first. As children are phased-in, those children with special needs who are involuntarily or voluntarily placed with or relinquished to the care of a licensed private child placement agency or Indian tribal organization, as well as those in the care of public state or local agencies, will also be eligible for adoption assistance. Children who are eligible for SSI, based solely on the medical and disability requirements, would automatically be considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements. *Requires that savings resulting from these new Title IV-E eligibility rules must be re-*

*invested in services (including post-adoption services) provided under Parts B and E of Title IV of the Social Security Act.*

- Expands the Adoption Incentives Program - to promote the adoption of children from foster care. It renews the Adoption Incentive Grant Program for an additional five years, updates to FY 2007 the adoption baseline above which incentive payments are made, doubles the incentive payments for adoptions of children with special needs and older children adoptions, and gives states 24 months to use the adoption incentive payments. H.R. 6893 also permits states to receive an additional payment if the state's adoption rate exceeds its highest recorded foster child adoption rate since 2002.
  - Makes older children adopted from foster care eligible for additional supports. Children 16 and older adopted (or who leave to legal guardianship with a relative) from foster care eligible for independent living services and for education and training vouchers.
  - Improves Outreach About the Adoption Tax Credit. The Act helps to ensure that children in foster care benefit from the adoption tax credit. Research shows that the majority of taxpayers taking advantage of the federal adoption tax credit had not adopted through public child welfare agencies but, rather, through private agencies or attorneys. H.R. 6893 requires states to inform all people who are adopting or are known to be considering adopting a child in the custody of the state that they are potentially eligible for the adoption tax credit.
7. **Improves the Child Welfare Workforce** – H.R. 6893 allows states to be reimbursed for training provided to an expanded group of individuals and organizations including kinship caregivers, court personnel, CASA's, and non-agency workers providing child welfare services. States will be reimbursed for providing such training at 55% for FY09, 60% for FY10, 70% for FY11 and 75% for expenditures thereafter.