

Testimony
House Bill 1092 – Department of Human Services
House Judiciary Committee
Representative Duane L. DeKrey, Chairman
January 10, 2007

Chairman DeKrey, members of the House Judiciary Committee, I am Tara Lea Muhlhauser, Deputy Director of the Children and Family Services Division and Program Administrator for Child Protective Services, of the Department of Human Services. I am here today to offer an amendment to House Bill 1092.

Section 3 of this bill, under subsection “g” of NDCC Chapter 27-20-02 (Definition for Aggravated Circumstances) sets forth the standard for children subjected to prenatal exposure to use of alcohol or controlled substances. The standard as set forth in this provision is “chronic and severe”. I am requesting that this language be amended to read “chronic or severe”.

This proposed language in this bill, as well as the current existing language in the definition of deprived child, NDCC 27-20-02 (8)(f), that is similar language, creates an unreasonably high burden for Child Protection Services. This unreasonably high burden necessary for us to sustain a finding of “services required” in a child abuse and neglect situation interferes with our ability to protect children in these situations.

To give you an example, in a very recent child abuse and neglect appeal of a “Services Required” for Physical Neglect finding, the

Administrative Law Judge ruled against our finding, reasoning that we hadn't met the "chronic and severe" threshold. In this case, a pregnant woman, by her own admission, used somewhere between 304 beers and as many as 760 beers during the course of her pregnancy, 38 weeks. She stated that she consumed two to four beers, four to five times a week. She also stated that her intoxication level generally occurred at 5-6 beers. In this case the child was also born with an unusually low birth weight.

Because "chronic and severe" is not defined in our statutory scheme, the Administrative Law Judge in this opinion used the dictionary definition to create the measure for "chronic and severe". We were unable to meet the threshold to maintain a finding of "services required" for child neglect in this instance given the extent of the admitted substance abuse of the mother.

Admittedly, this issue needs greater discussion in a multi-disciplinary context to better position us to protect children and provide evaluations, treatment, and other services to parents. However, this small change I'm proposing today in these two sections can bring us forward in our ability to protect our most vulnerable children born to parents with either chronic or severe use of alcohol.

With this change, the Child Protection field will still be required to offer substantial proof of drug and alcohol use, but the change will lower the threshold we face in these cases so that we can be assured that we can provide and require child abuse and neglect services where needed.

Thank you for your time today. I have prepared an amendment for the good of the process, attached to this testimony. Are there any questions?