

Testimony
House Bill 1159 – Department of Human Services
House Judiciary Committee
Representative DeKrey, Chairman
January 14, 2009

Chairman DeKrey, members of the House Judiciary Committee, I am Tara Lea Muhlhauser, Director of the Children and Family Services Division of the Department of Human Services. I am here today to provide you with an overview of House Bill 1159. The Department supports passage of this bill.

North Dakota Century Code chapter 27-20-54 provides for the destruction of Juvenile Court records. While this section has been long standing, recent practice and protocol changes within the ND Supreme Court have resulted in judicial orders to destroy records received by the ND Department of Human Services and County Social Service offices.

Through this bill, we are seeking an exemption to this records destruction policy for the ND Department of Human Services and County Social Service offices similar to the exemption, already in law, for the Department of Transportation. While we agree in principle to the historical and philosophical basis behind this records destruction law, the law at present puts us in a difficult legal position. When we receive orders to destroy "all files, records, and references" (NDCC 27-20-54 (2)), including dispositions contained in files based on juvenile records, we are ordered to destroy records that federal and state law and requirements mandate us to retain and have available for programmatic audits and various other quality assurance purposes. In addition, in the case of Human Service Center records, we are asked to destroy records for individuals who we may still be

serving as clients. Having this information available is essential to serving the clients in the best and most efficient manner.

For instance, we may be asked to destroy the court order that was used to place a child in foster care, and the accompanying details of juvenile court involvement found in their file that relate to their status as a deprived child. At the same time, we may be engaged in providing services to this same individual as a young adult transitioning into an independent life outside the child welfare system. The Department receives federal dollars and state dollars to pay for child welfare related expenses (the stay in foster care), federal and state requirements mandate that we maintain copies of the court order placing the child in foster care. Thus, receipt of record destruction orders places the Department, and county agencies, in a very difficult situation.

The Department, and county agencies, do have records retention and destruction policies at varying lengths of time for various programmatic services. There is institutional assurance that records will be destroyed, at a date and time that will comply with the requisite state and federal requirements. In this bill, we have indicated that we may not keep a record beyond the length of these policies.

Thank you for consideration of my testimony, and I ask for your support on House Bill 1159. I am available to answer any questions you have.