

Testimony
Senate Bill 2097 – Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 14, 2009

Chairman Lee, members of the Senate Human Services Committee, I am Tara Lea Muhlhauser, Director of the Children and Family Services Division and Program Administrator for Child Protective Services, in the Department of Human Services. I am here today to provide you with an overview of Senate Bill 2097. The Department supports passage of this bill.

Child Protective Services, under the authority of NDCC 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 2007, we received 7,657 reports of child abuse and neglect, involving 6,271 potential victims. This is a number that has remained relatively steady in the past five years. Of the total number of reports received, 660 cases were determined to be "Services Required" involving 1,288 victims. A "Services Required" case 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 concerns amendments to the current law addressing several issues that will allow for greater clarity and efficiency in our ability to provide protection for children.

Section 1 of the Amendment concerns definitions. We are asking that employees of “public or private schools” be removed from the definition of “a person responsible for the child’s welfare”. The effect of this change would mean that Child Protective Services would no longer conduct Child Protective Service assessments when the reported abuse or neglect involved a teacher (or school employee) and student.

Child Protective Services has no authority to enforce recommendations or decisions made by local Child Protection Teams when the subject is a school employee and the child abuse incident concerns a child under their supervision in a school setting. Juvenile Court has no jurisdiction in these cases when the parent is not the alleged subject of the abuse or neglect; thus, we have no ability to enforce recommendations or decisions made to protect children in these cases. In addition, schools have their own processes in place for gathering facts and disciplining their employees in these incidents, and we believe it is an issue best addressed by school administrators, school boards, law enforcement, and parents.

Also in this section is a clarification to the definition of “abused child” so that any child who is sexually abused (not just those reported to be abused by “a person responsible for the child’s welfare”) is covered under the mandated reporting section found elsewhere in the law. This was an oversight that occurred in the changes made in this definition during the last legislative session.

Section 2 of this bill contains language to clarify several provisions under the “Confidentiality of Records” section of the current law. This proposed change allows the department to make a report-by-report decision on whether we might release records to the requesting individual or entity, and gives greater clarity to this provision. Also included is language that clarifies what information is available to be used in administrative proceedings in child abuse and neglect appeals. In this section, I would also like to offer an Amendment to this bill. Our original draft included language that upon later review is superfluous and adds nothing to the meaning of the provision; therefore, I respectfully request that “being requested” be removed.

Finally, we have updated the language in the “bona fide research” exemption under this section to refer to the involvement of the department’s Institutional Review Board in approving research requests. This board was not in existence when this section was initially written.

Thank you very much for the opportunity to appear in support of Senate Bill 2097. I am available to answer any questions.