

Testimony
House Bill Number 1108 - Department of Human Services
Senate Human Services Committee
Representative Judy Lee, Chairman
March 13, 2019

Chairman Lee, and members of the Senate Human Services Committee, I am Marlys Baker, Child Protection Services Administrator with the Department of Human Services (Department). I appear before you to support House Bill 1108, which was introduced at the request of the Department.

Section 1:

Page 2, lines 18 and 19 is a housekeeping matter which updates the definition of “abuse of alcohol” to reflect “alcohol abuse disorder” as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American Psychiatric Association.

Page 2, lines 10 through 18. These proposed amendments refine the current definition of “assessment” as “child protection assessment” and expands the definition to include “evidence-based screening tool” to be included in both a child protection assessment and a family services assessment in response to a report of suspected child abuse or neglect. This addition is to specifically allow the use of evidence-based screening tools to aid in the potential identification of trauma, suicidality or other health or mental health difficulties in children interviewed during a child protection services action and assist in identifying children who may benefit from a referral to a mental health professional for additional evaluation and treatment if determined appropriate.

Page 2, lines 30 through Page 3, line 2 adds and defines “family services assessment”, which would allow child protection services to respond to reports of suspected child abuse or neglect in which a child was determined to be at low risk

and free of evident safety concerns as determined by guidelines to be developed by the Department.

Page 3, line 18 makes a grammatical correction to the definition of “near death”.

Page 3, line 24 makes a grammatical correction to clarify toxicology testing performed on the mother at delivery or on the child at birth is consistent with the toxicology testing requirements stated in 50-25.1-17.

Section 2:

Page 4, line 25 and 26 adds licensed social worker, family service specialist and child care licenser to the statute as persons mandated to report reasonable suspicion that a child is abused or neglected. Licensed social worker was inadvertently omitted during amendments to the mental health professional categories in the 2017 legislative session. Family service specialist is a position title frequently found in county child welfare employment, similar in functions to licensed social workers, who have not been previously mandated to report suspected child abuse or neglect. Child care licensers also have not been mandated to report suspicions of child abuse or neglect in child care situations. It is appropriate that they should do so in order to provide safe child care environments for children.

Section 3:

Page 5, lines 7 through 16 adds permissive language to allow a family services assessment option in response to a report of suspected child abuse and neglect. The proposed amendments to this section maintain a “child protection assessment” in coordination with law enforcement whenever a report alleges a criminal violation, such as physical or sexual abuse, as well as an alternative response assessment to reports of substance exposed newborns. The proposed “family service assessment” language offers a third option for assessing reports in a manner that does not require a fact-finding process or a determination of abuse or neglect and allows an

approach to families in a less threatening manner to assess needs for services when the reported concerns indicate low risk and threats to child safety are not identified.

Page 5, lines 17 through 24 adds guidance to child protection services to complete a child protection assessment in the event a law enforcement agency declines investigation.

Page 6, lines 6 and 7 limits child protection services requests for medical records to child protection assessments only.

Section 4:

Page 6, lines 19 through 27 limits the decision whether services are required for the protection and treatment of an abused or neglected child to be made in child protection assessments only.

Section 5:

Page 7, line 5 clarifies that the grievance and appeal process are available only for subjects in child protection assessments.

Section 6:

Page 7, lines 10 and 11 includes reimbursement to the Department's authorized agent for family service assessments.

Section 7:

Page 7, lines 23 through 25 extends immunity from liability for those reporting, assisting or furnishing information in a family services assessment.

Section 8:

Page 8, line 5 addresses notification of the results of a child protection assessment to parents of children receiving early childhood services.

Section 9:

Page 8, line 17 assures that a child protection assessment shall be initiated in the case of an abandoned infant if it appears that the infant was harmed.

Section 10:

Page 8, lines 21 through 28 creates a new section to chapter 50-25.1 of the North Dakota Century Code to prevent a decision that services are required from being made as a result of a family services assessment when the person responsible for a child's welfare complies with the resulting referred services for the child. If the person responsible for the child's welfare does not comply with services, the proposed language allows a child protection assessment to be completed.

Section 11:

Page 9, lines 1 through 6 creates a new section to chapter 50-25.1 of the North Dakota Century Code to require the Department to provide appropriate referral services in a family services assessment to the caregiver and children that are necessary for the well-being of the children and allows this to be conducted by the Department's authorized agent.

Section 12:

Page 9, lines 9 through 16 creates a new section to chapter 50-25.1 of the North Dakota Century Code to establish that evidence-based screening tools used during a child protection assessment to conduct screening, treatment, referral for services and receiving services are privileged and not subject to subpoena, discovery or introduction into evidence in any civil or administrative action nor subject to confidentiality exceptions elsewhere in the statute. This is requested in order to prevent disclosures made by a child in response to a screening tool to be used inappropriately against the child or parent in civil or administrative actions.

Background:

Since the inception of the child protection statute in 1978, there has been a single response available to child protection workers in response to reports of suspected child abuse and neglect. First known as an “investigation”, which was incident-based in nature and then changed in 1995 to “assessment” to provide a more comprehensive inquiry into child safety and family functioning. This response has required initiation of the same approach and process steps with all families, with the goal of fact finding to determine whether there is a preponderance of evidence that a child has been abused or neglected under definitions in statute. This same process is initiated regardless of the type of maltreatment reported or degree of risk or harm to a child. Because of the investigatory nature of the child protection assessment response, families are often fearful to engage in the very services intended to help them and their children. A family services assessment approach focuses on engaging families, both to recognize behaviors that put their children at risk and to change those behaviors through the assistance of supports and services. The focus of the response and service delivery is primarily based on the assessment of safety, risk, and protective capacity of the individual family, rather than a “one size fits all” fact finding process. The Department has consulted with Casey Family Programs, an organization that has consulted with at least 21 states in initiating similar systems referred to as “multiple response”, “dual-track” or “differential response”. Casey’s research indicates that initiating a more “family centric” approach has not compromised child safety. Children are at least as safe as in traditional response cases. Casey’s research also indicated that more parents engage in services and that caseworkers, administrators and families are supportive of the less adversarial approach. Since the initiation of an Alternative Response approach to reported cases of substance exposed newborns in the 2017 legislative session, staff and administrators at both the county and state level have advocated moving forward with a family assessment option for low risk reports of child maltreatment.

This concludes my testimony and I am available to answer your questions. Thank you.