

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2100

2007 SENATE JUDICIARY

SB 2100

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2100

## Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 904

Committee Clerk Signature

*Maria L. Solberg*

**Minutes:** Relating to reports written on persons reporting alleging child abuse or neglect.

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

### Testimony In Support of Bill:

**Tara Lea Muhlhauser**, Dep. Dir of the Children and Family Services Div. & Prog. Admin.-Dept of Human Services. (meter 0:40) Gave Testimony Att. #1

Sen. Nelson question of how many cases reported, were reported false (meter 8:02) fervy low.

**Kathy Hogan**, Dir. Cass Co. Social Services, ND Co. Social Service Dir. Assoc. (meter 9:50)

Gave Testimony Att. #2a. Additional Information Att. #2b, Questions/concerns Att. #2c.

### Testimony in Opposition of the Bill:

**Jim Jacobson**, Dir of Protective Service Unit for the ND Protection and Advocacy Project (Meter 15:20) Concerns in the elimination of school personnel in recording. While I understand there is a resource issue relative to child protective services, and the ability to investigate cases that arises in the school settings. Our agency works with adults and children with disabilities. We at times get cases referred to us that involves the potential mistreatment of children in school settings. I am concerned that their isn't a set of guidelines or set of regulations that mandate an effective response by the school system. Sited example of (meter

16:40) of child with a disability being left on a bus in the winter all day. The school would not respond to what they did-stating it would be in violation of the "family education right to privacy" act and could not make a report, stated another incident of a teachers "coaching" of miss behavior.

**Nancy Sand**, NDEA (meter 18:36) In opposition to only one statement in the bill. Sec. 5 Reporting out to go to the Administration rather than the school boards. Sec. 4 to add school councilor in reporting and providing information, we understand the reason for that and that is o.k. In adding school personnel to the list of mandated reporters-F.Y.I. we represent a large number of support staff members in our organization and we inform them that if they suspect anything it should be reported We would request that in Sec. 5 you include the School Administration.

**Testimony Neutral to the Bill:**

**Susan Beehler**, Mandan, ND Mother (meter 20:32) page 2 under "cause by person responsible" line 4 they struck out "or" left in "and" this language makes it that the person has to have done both.

Page 1 and page 4 -should include a "person responsible" should be persons required to submit. Sited cases between siblings and step spouses/children (meter 22:10). They may are not required to report. Spoke of children that set fires.

**Senator David Nething**, Chairman closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2100**

**Senate Judiciary Committee**

☐ Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1291

Committee Clerk Signature

*Maria L. Solberg*

**Minutes:** Relating to reports written on persons reporting alleging child abuse or neglect.

**Senator David Nething**, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

**Sen. Olafson** reviewed the sub committee work on and amendment done three different ways

–Att #1b is best.

**Senator David Nething**, Chairman closed the hearing.

**Sen. Olafson** made the motion to Do Pass Amendment 1b and **Sen. Marcellais** seconded the motion. All members were in favor and the motion passes

**Sen. Olafson** made the motion to Do Pass SB 2100 as Amended and **Sen. Marcellais** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Marcellais**

**Senator David Nething**, Chairman closed the hearing.

Date: 1-17-07

Roll Call Vote #   /  

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2100

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass Amend. 1b

Motion Made By sen Olafson Seconded By Sen. Marcellais

| Senators     | Yes | No | Senators        | Yes | No |
|--------------|-----|----|-----------------|-----|----|
| Sen. Nething | ✓   |    | Sen. Fiebigger  | ✓   |    |
| Sen. Lyson   | ✓   |    | Sen. Marcellais | ✓   |    |
| Sen. Olafson | ✓   |    | Sen. Nelson     | ✓   |    |
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Total Yes 6 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 1-17-07  
Roll Call Vote # 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2100

Senate \_\_\_\_\_ Judiciary \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass As Amended

Motion Made By Sen Olafson Seconded By Sen. Marcellais

| Senators     | Yes | No | Senators        | Yes | No |
|--------------|-----|----|-----------------|-----|----|
| Sen. Nething |     |    | Sen. Fiebigger  |     |    |
| Sen. Lyson   |     |    | Sen. Marcellais |     |    |
| Sen. Olafson |     |    | Sen. Nelson     |     |    |
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Total Yes 4 No 0

Absent 0

Floor Assignment Sen. Marcellais

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2100: Judiciary Committee (Sen. Nethling, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2100 was placed on the Sixth order on the calendar.

Page 4, line 17, overstrike "center or any other child care"

Page 4, line 18, after the second comma insert "juvenile court personnel, probation officer, division of juvenile services employee,"

Page 5, line 3, overstrike "is the", remove "child identified in", overstrike the second "a", remove "child abuse and neglect", and overstrike "report" and insert immediately thereafter "the person or official has knowledge or reasonable cause to suspect is an abused or neglected child"

Page 5, line 18, replace "staff" with "employee"

Page 5, line 28, after "board" insert "and school administrator"

Renumber accordingly

2007 HOUSE HUMAN SERVICES

SB 2100

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2100

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 13, 2007

Recorder Job Number: 4983

Committee Clerk Signature

*Judith Schock*

Minutes:

**Vice Chairman Pietsch :** Calls the meeting to order and we will open the hearing on SB 2100.

**Tara Lea Muhlhauser, with the Department of Human Services:** See attached testimony and proposed amendments.

**Representative Weisz:** You are saying you are now going to ask the veterinarians to make a judgment call for animal abuse supposedly because it has to do with child abuse? Generally I didn't think veterinarians saw children in the process. I am curious what road we are going down here?

**Ms Muhlhauser:** Our expectation is that veterinarians would be mandatory reporters when they suspect child abuse or neglect, when they have a suspicion of child abuse. Typically for any of our other reporters that means that they see a child and have suspicion that abuse or neglect or they hear something that leads them to believe a child has been harmed. I don't think you can make an immediate jump when you see animal neglect and they might be a victim of child abuse and neglect. They would have to see the child with a bruise or black eye.

**Rep. Porter:** What is the penalty for not complying? In section 6, if I am a next door neighbor of a child I think is being abused than my identity is not protected? It really limits the identity of

the person supplying the report. If you supply the initial report as a next door neighbor I don't see the protection of the identity. It limits just those that are required to report.

**Ms. Muhlauer:** It is a b misdemeanor to fail to report. If we were to come to you and you were not the reporter of the case, we would ask you if you have seen anything. Right now we could not maintain any protection or your identity. Because you are not the reporter, you are the information supplier. The existing law right now we have specific protection for the name or the details around the reporter, and the confidentiality in section 50-25.1-11 that you don't have in front of you in the bill. We have in the past told reporters we can protect you until we go into court process, than we may have to call you forward as a witness. We are feeling like we don't have statutory language to protect those suppliers right now.

**Rep. Porter:** On page 4 section 2 sub section 2 you talk about any other person. I am looking at veterinarian now may report such circumstance. As we start picking and choosing in sub sec 1 to add other individuals, why not just change the word may to must and require it from everyone. Just looking in sub section 1 I help coach kids in basketball. I don't see I am covered in that. I am not a school teacher. I am a life guard and see kids with less than street attire and I am not mandated to report if I see one with belt marks on his back. I see a lot of loop holes.

**Ms Muhlauer:** I don't disagree with that. I think it is just a difference in theory. When we think of mandatory reporters we think of people we have specifically charge with a professional duty to report. I am certainly willing to go down that path of charging everyone with that duty. Professionals are lifted up to a special duty as opposed to the general public I don't disagree with you I would want you as a coach and a park and rec person to report that. We have not had foster parents in here as a mandate until now.

**Rep. Porter:** Has anyone since this law has been active, been charged with a class b misdemeanor?

**Ms Muhlauer:** Yes, a physician was charged and went through trial. The trial was unsuccessful. I think there were a couple other scenarios in the state. I am not familiar with the results.

**Rep. Weisz:** Why are we protecting the professionals, and they are held with higher standards? Why change anything when it has always been mandated for the professionals to report.

**Ms Muhlauer:** The parent gets a copy of the complete assessment report. The name of the reporter is blocked out. The reporters have said they are uncomfortable with parents knowing who they are and where they may be found in the community. They don't want to face harassment, and unpleasant contact.

**Rep. Conrad:** Do you or the department do anything different with those folks? What makes it important to identify some one in a mandatory report? In the training I would think it would make them sensitive to signs of child abuse.

**Ms Muhlauer:** the significance of identifying is a professional mandate. So for us to identify them in this law means that they are mandated reporters. If they have knowledge of, or suspicion they must report. We do lots of education on mandated reporting. If they are just not sure we ask them to tell the child protective services social workers who are professionals in this. We look at the details they provide and make a decision. We are not out in the community looking for business. We have to rely on the other professional groups to be our eyes and ears.

**Rep Kaldor:** What happens in the case where someone does report, and it is investigated and you determine there really isn't anything going on. How do the parties involved get affected by that?

**Ms. Muhlauer:** What happens when you get a report typically a social worker will read it or supervisor. They will do the analysis, does it fit under the law, do we have jurisdiction. They also will look if we have on going involvement with the family. Do we need to see the child first, what is the protective issues, when and why do we need to see the parent or subject. Is there a crime involved, is the child injured, do we have an immediate safety concern that we have to attend to with the out come of the report. Depending on the out come of the analysis the Social worker has a number of decisions they need to make about how to proceed. We would ask for removal if we can't protect the child any other way.

**Chairman Price:** What is the penalty if someone intentionally reports when there is nothing and they are doing it just to get back at a person? I had two complaints in the last year.

**Ms. Muhlauer:** 50-25.1-13 it is the penalty to fail to report, and further penalty for false reporting. The law enforcement deals with the criminal issues. We do the safety assessment.

**Rep. Kaldor:** What if the report is a mistake, not a malicious accusation, not to get back at someone? How far does the process go?

**Ms Muhlauer:** I don't know that I could give you a black and white answer. It depends on the suspicion. We would check the facts, and check with the child.

**Chairman Price:** Is there a guarantee that all the counties and regions are doing the same things the same way? In the area I am talking about they never talked to the child at all. How do we protect the family if there is nothing going on and there was an incorrect removal?

Possibly you have an over zealous worker. If you get complaints from certain areas, what authority and steps do you take?

**Ms Muhlhauer:** We work hard at training and to follow the manual. On one has ever asked about getting complaints. I get on the phone to talk to the regional supervisor to find what their perspective is on the case. Talk to the county people. If I feel I need to review a trial I will review files to do the inquiry. It depends on the situation. We are writing policy tools to use administratively.

**Rep. Weisz:** Based on your testimony, you were saying a black eye is a reportable event?

**Ms Muhlhauer:** It depends on the details. I don't think it not just signally the black eye. The teacher may have knowledge that this is the forth black eye.

**Rep. Porter:** On the over sight of the department back to the county level. Is there any quality assurance process in place where a certain number of cases are reviewed at a pier level?

**Ms Muhlhauer:** We have two distinct qualities of assurance in the department. We have regional supervisor, who are out in the centers in the field. They review the files, and their findings. If they feel there is a policy violation or questions about the decisions that have been made, they will ask the county to provide them a plan to address some of those issues.

**Valarie Fischer, Director of School Health for the Department of Public Instruction.** See attached testimony, and proposed amendment.

**Rep. Conrad:** I always thought it odd we did investigations on teachers. I am wondering why you would want to keep that in there. The school board and administrator should know what is happening in the class room. When we do child abuse evaluation the assessment of the family is different than a class room. You are kind of mixing 2 situations. Shouldn't the school board be responsible for what happens in the school?

**Ms Fischer:** We want schools and employees to be considered in there because they are talking about the best interest of the children and the child's welfare. Yes, that is what we are talking about by including the board.

**Rep. Porter:** there are a number of schools that hire coaches that aren't necessarily school teachers. By my reading of this bill there is no mandatory reporting of that individual that is an employee of the school and is not a teacher. Should there be?

**Ms. Fischer:** Yes, there should be, and again I believe it would be how it would be interpreted.

**Bev Nielson: With the ND School Board Association:** I am here to support the Department of Public Instructions amendments for this bill. Certainly when things come to our attention about children and employers in our school we look into them. I sat an hour and 15 minutes listening to a lady telling you the training required being into these things, and the other things required for determining if in fact child abuse has occurred. I don't want our school administrator tied up in types of investigations. We aren't an investigative unit. If an assessment is done and it is not the parent, and they think it might be at school our position is that the investigative unit is to determine that, not us. If we need to dismiss, or terminate the person that is one thing. We have no problem being reporters. We just aren't investigative agencies. After listing the last hour plus, I know we don't want to do it. We have our own type of punishments. We would hope the majority of our time would be spent on educating kids.

**Rep. Porter:** I love the school personal language. I was a volunteer, none contracted inside of a school after hours helping out a 4<sup>th</sup> grade basketball team. I would not consider my self school personal. If this is truly going after the broad range does it need to be more specific?

**Ms Fischer:** As a volunteer you are under our liability insurance so you probably would. I am not in a position to speak on how broad the reporting to be. I would leave that up to you.

**Mary Wahl, representing the ND Council of Education:** We stand in support of the amendment from DPI. What we think is really important is there is some consistency with in the investigations that take place. School personal and administrators are not trained to be

investigators. The skilled training is really important. We hope the people that are so designated to do this work are supported in those efforts.

**Kathy Hogen, ND County Social Service Director:** this is the ugliest piece the counties do. People are always mad at you. In terms of supervision we never remove a child with out court action in 72 hours. There is a fairly intense process. There is a legal process as well as a social process. Should the counties be involved in investigating allegations in the public schools? The counties were supportive of 2100 as was originally drafted. We did not know the amendments were going to be proposed this morning. Should the child protection be part of the school system? We were pleased the schools thought we did a good enough job and that they wanted us to be a part of the decision process.

**Jim Jacobson, Division of ND Protection and Advocacy Project:** I want to comment on the proposed change by DPI. I think it is a big mistake to eliminate schools from that care taker definition. I can be sensitive to the resource issue but it is based by the counties. I do think an effective investigation is a critical piece.

**Rep. Conrad:** How about residential homes? .

**Mr. Jacobson:** I am not comfortable with that either. If a parent feels at risk because child protection has become involved that tells me that parent must really care about the child.

**Rep. Kaldor:** Seems to me the DPI amendments in section 1 put them back, but you do not support the deletion of them as investigators?

**Mr. Jackobson:** Yes, and I support the DPI amendments. I can't speak against the position being taken by the counties. We get involved in some cases. Most investigation do not have parents there.

**Chairman Price:** Anyone else to testify for SB 2100? Hearing none we will close the hearing on SB 2100

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2100

House Human Services Committee

☐ Check here for Conference Committee

Hearing Date: March 14, 2007

Recorder Job Number: 5097

Committee Clerk Signature

*Judy Schock*

Minutes:

**Rep. Price:** There are a couple of sets of amendments that have been proposed. Let's look at the one that deals with section 5.

**Rep. Porter:** I certainly understand why the school board and administrators do not want, nor have the expertise to do the investigation.

**Rep. Price:** I think you are looking at a wrong amendment.

**Rep. Porter:** Oh I don't have a comment on the other one.

**Rep. Price:** Are we ready for a motion?

**Rep. Conrad:** I move the amendment.

**Rep. Porter:** I second that.

**Rep. Price:** Is there discussion?

**Rep. Porter:** I talked to Mr. Mullin when we were done yesterday. IT is something that needs to be done to cover the crossover between the agencies.

**Rep. Price:** All in favor say 'aye' all opposed say 'no'.

**Rep. Porter:** I certainly understand where the local school boards and school districts are coming from. They do not want to have this obligation for responsibility to investigate and dispose of a report implicating someone. I couldn't imagine that. When we heard from Social

Services and employees on the amount of training that they do in order to get to the level of proficiently doing this work and that everyone is at a social workers level which now is a master's degree. I just can't imagine that you would take that and put that upon a school board made up of elected officials or a local school district. I would move that we overstrike on page 5 line 29 the new language "or to a local school board or administrator".

**Rep. Price:** Do you want to do all of that? On the front page too?

**Rep. Porter:** Sure. I would do it all as one motion.

**Rep. Kaldor:** I second that.

**Rep. Price:** All in favor say 'aye' all opposed say 'no'.

**Rep. Porter:** When you look at this, and I know that this is a very difficult subject even for us to discuss. I think that as you look across the state, parents in general are doing what is best for their kids. I think that child abuse is out there. We do have to protect those who don't have a voice and can't protect themselves. I look at this bill and I don't necessarily agree or disagree that you start to keep expanding the list of people to require to permit or report. It really doesn't do anything. It is really hard to prove that you knowingly failed to do it. I think they can cite one case that happened a long time ago that really wasn't a knowingly case. Someone thought someone else had made the report in the medical practice. That to me still isn't knowingly avoiding the responsibility to report. Expanding the list to school personnel, school bus drivers, and foster parents. If you start thinking about this list, it goes on and on. I look down on subsection 2 on line 28. Really you can get rid of subsection 1 by just changing that word to shall. Any person having reasonable cause to suspect that a child is abused and neglected shall report the circumstances to the department. I was trying to think who we are missing in subsection 1. Someone that has contact with kids. I do have a concern that school personal does not include volunteer coaches. Section 2 just bothers me. I think that every time we look

at it we are trying to pick a person here or there that may or may not come into contact with kids who are abused. I believe that a law that says if you think someone has been abused; here is the number to call. Just call and report it. Let us as professionals take over. We don't need to start picking and choosing people that have to report in a law that is almost unenforceable. I may just be venting about section 2 because I think the more we try to capture everybody the more we should just change subsection 2 to shall and just be done with it. When we look at subsection 1 we certainly haven't covered all the basis that we probably should cover. It is something that we should do every 2 years. I don't know.

**Rep. Conrad:** I started practicing Social Work in 1974 and this law was passed in 1975. It has changed the whole world of Social Services because of the mandatory reporting. Prior to that it was that number 2 and that was it. Until there were mandatory reporters there were no reports because people said that other ones were responsible. I remember going to my mother and she said that they will go to Public Health and they will investigate. That wasn't true it was just her perception of what happens. It was only because of the mandatory reporting that we have had these issues addressed. IT has taken a long time and it has been a rocky road for the full process. We can't throw out mandatory reporting. That would take us way back.

**Rep. Porter:** I'm not sure if you were listening, we weren't throwing out subsection 1 without changing subsection 2 to 'shall' so the mandatory reporting is on everybody in the state.

**Rep. Conrad:** The problem is that no one will because everyone assumes everyone else is doing that. This way these particular people that are in a particular situation of coming in contact with children are required to report. They can't look around and think someone else did it.

**Rep. Kaldor:** I can understand that point. However, I have to agree with Rep. Porter about this list. Next session there are going to add more people. I mean they have veterinarian on there. I

think I completely agree with the positions of someone that is absolutely trained in these areas. It would be terrible. It is morally wrong if they don't report it. There are a lot of people on the list to discern what is really going on.

**Rep. Schneider:** I spoke to Rep. Pinkerton and their association did not support having a veterinarian on this list. They can't tell what went on. It would be a stretch for them to make that determination in children.

**Rep. Conrad:** This list has not really been changed since 1975. I wonder why we have to have school bus drivers and well as school personal. Let's just not go to the whole world.

**Rep. Porter:** Rep. Kaldor is absolutely right. We are missing a whole other group of people. You drop your kids off at the YMCA for swimming lessons, do they have a responsibility or should they? What makes them different then school personal? Or the park board when you drop your child off for baseball practice. The problem is starting to make a list. I don't necessarily disagree with Rep. Conrad that the first part of the list is just reminding those people that they have to report. Once you start adding little pieces here and there you are missing so much of where kids are. You are missing the course.

**Rep. Weisz:** I think we live in a much different world than in 1975. First of all we are much more aware of what is going on in the world that we live in. Rep. Kaldor asked the question on what happens to these families that are reported. Do they go down that road and there is no child abuse? What happens to that families? I know of families that have been absolutely devastated by this process. I am a little reluctant to keep adding names to this list. If that increases the reporting so that we get to those situations that we currently should be. I think we have gone far enough here. It could be endless.

**Rep. Uglem:** I do see a very close relationship between animal abuse and child abuse. There is some reason why they are including vets. Also in section 2 they are changing that and it

would include siblings that are probably being abused themselves. That would be jeopardizing their own safety.

**Rep. Hatlestad:** On line 14 and 15 we put the word any other medical or mental health professional. Why are we not able to do the same thing with the police or law enforcement officer? Why do we need to have juvenile court and probation officers position of juvenile services when they all fall under 'law enforcement'? The same thing is with school teachers. If we are going to make it all encompassing, make it all encompassing. If we are going to pick and choose then pick and choose. I just think that if you are looking at this and one day you look at it and your not on the list, and the next day you are. The legislator meets again and you are off and on and off and on. To me we just have to make it so that there are people that are required to report it and be done. By looking at this there would be an argument because of the volunteer EMT is a Para profession under a position. They wouldn't have the duty to report under this right now. The way it is written it says medical or mental health professional. In my estimation they would not have a duty to report.

**Rep. Conrad:** One of the differences between a professional and a volunteer is that you can be sure that the professional would have the training and the kind of reporting to do. The County Commissioners would appreciate it if we would limit the number of neighbor reporting as much as possible. Not to say we don't want neighbors to report. We should have a good, solid report. What she is saying is that then they would get themselves trained.

**Rep. Hatlestad:** Why would a school teacher and an administrator not be considered school personal.

**Rep. Porter:** It would certainly include all of the people. Are they going to be trained for everyone? Now they have a duty to report and they don't know what they are reporting? Are

we going to send them all a letter and tell them they have a duty to report or they are going to be subject to a class B Misdemeanor after August 1?

**Rep. Conrad:** That is what it is doing.

**Rep. Price:** Do we want to make the motion right now?

**Rep. Porter:** I would make a motion that on section 2 that we would remove the word veterinarian that we would remove the word or school personal, school bus driver, and I would leave it at that.

**Rep. Kaldor:** I second that.

**Rep. Price:** Any discussion?

**Rep. Potter:** I am under the same opinion as Rep. Uglem. I think there is a connection between animal and child abuse. From everything I read there is a definite connection and I hate to see that taken off.

**Rep. Schneider:** There is no doubt about it that there is a connection. When you have a veterinarian that doesn't see the children. What I would like to see as if a vet suspects there is animal abuse, he has a duty to report animal abuse and law enforcement can draw connection.

**Rep. Uglem:** I would assume that it means when someone brings a pet to the vet and the child comes along. The vet sees the child and then reports it.

**Rep. Porter:** I would agree with that. If the vet sees the child that they think has been abused, under subsection 2 they may report those circumstances. That is every citizens and the states responsibility to care for those kids that can't speak for themselves. If you put a class B Misdemeanor it is wrong. It encourages them in subsection 2 that they should report it. In subsection 1 we are telling them the penalty. I think that is a stretch and it is wrong.

**Rep. Price:** All in favor say 'aye' all opposed say 'no'.

**Rep. Kaldor:** How many have read lines 24-26?

**Rep. Price:** I'm not sure.

**Rep. Porter:** I don't know if the juvenile court personal, my understanding is does this go far enough under the law enforcement to include the judicial branch? Maybe that is where we should be. To pick up the judges and barristers. We have law enforcement. Maybe we should pick them all up? A probation officer is an officer of the court. I'm thinking that a juvenile court personal is an officer of the court system also.

**Rep. Hatlestad:** Does an attorney have a responsibility to report it if his client were to say something, or is that confidentiality?

**Rep. Schneider:** We would fall under subsection 2. Ethically, no. Anything they tell us is confidential. It is a judgment call that every attorney has to make. The burden would be to break that confidentiality and most won't.

**Rep. Price:** Is there any more discussion? What are your wishes?

**Rep. Conrad:** I move a do pass as amended.

**Rep. Schneider:** I Second that.

**Rep. Price:** Is there any more discussion? If not we will take a roll call vote on a do pass as amended motion for SB 2100. The motion passes 11-1-0. Is there a volunteer to carry this?

**Rep. Porter:** I will.

Date: 3/14  
Roll Call Vote #: /

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House HUMAN SERVICES SB 2100 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Money Amendments

Motion Made By Rep. Conrad Seconded By Rep. Porter

| Representatives                | Yes | No | Representatives  | Yes | No |
|--------------------------------|-----|----|------------------|-----|----|
| Clara Sue Price – Chairman     |     |    | Kari L Conrad    |     |    |
| Vonnie Pietsch – Vice Chairman |     |    | Lee Kaldor       |     |    |
| Chuck Damschen                 |     |    | Louise Potter    |     |    |
| Patrick R. Hatlestad           |     |    | Jasper Schneider |     |    |
| Curt Hofstad                   |     |    |                  |     |    |
| Todd Porter                    |     |    |                  |     |    |
| Gerry Uglen                    |     |    |                  |     |    |
| Robin Weisz                    |     |    |                  |     |    |
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Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3/14  
Roll Call Vote #: 2

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House HUMAN SERVICES SB 2108 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken move 2<sup>nd</sup> Amendment

Motion Made By Rep. Porter Seconded By Rep. Kaldor

| Representatives                | Yes | No | Representatives  | Yes | No |
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| Clara Sue Price – Chairman     |     |    | Kari L Conrad    |     |    |
| Vonnie Pietsch – Vice Chairman |     |    | Lee Kaldor       |     |    |
| Chuck Damschen                 |     |    | Louise Potter    |     |    |
| Patrick R. Hatlestad           |     |    | Jasper Schneider |     |    |
| Curt Hofstad                   |     |    |                  |     |    |
| Todd Porter                    |     |    |                  |     |    |
| Gerry Uglem                    |     |    |                  |     |    |
| Robin Weisz                    |     |    |                  |     |    |
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Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3/14  
Roll Call Vote #: 3

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House HUMAN SERVICES

SB 2108

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken

Motion Sec 2 Amend.

Motion Made By Rep.

Porter

Seconded By

Rep. Kaldor

| Representatives                | Yes | No | Representatives  | Yes | No |
|--------------------------------|-----|----|------------------|-----|----|
| Clara Sue Price – Chairman     |     |    | Kari L Conrad    |     |    |
| Vonnie Pietsch – Vice Chairman |     |    | Lee Kaldor       |     |    |
| Chuck Damschen                 |     |    | Louise Potter    |     |    |
| Patrick R. Hatlestad           |     |    | Jasper Schneider |     |    |
| Curt Hofstad                   |     |    |                  |     |    |
| Todd Porter                    |     |    |                  |     |    |
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Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent

0

Floor Assignment Rep. \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3/14  
Roll Call Vote #: 4

**2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."**

House HUMAN SERVICES SB 2100 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as Amended

Motion Made By Rep. Conrad Seconded By Rep. Schneider

| Representatives                | Yes      | No       | Representatives  | Yes      | No |
|--------------------------------|----------|----------|------------------|----------|----|
| Clara Sue Price – Chairman     | <u>L</u> |          | Kari L Conrad    | <u>L</u> |    |
| Vonnie Pietsch – Vice Chairman | <u>L</u> |          | Lee Kaldor       | <u>L</u> |    |
| Chuck Damschen                 |          | <u>L</u> | Louise Potter    | <u>L</u> |    |
| Patrick R. Hatlestad           | <u>L</u> |          | Jasper Schneider | <u>L</u> |    |
| Curt Hofstad                   | <u>L</u> |          |                  |          |    |
| Todd Porter                    | <u>L</u> |          |                  |          |    |
| Gerry Uglem                    | <u>L</u> |          |                  |          |    |
| Robin Weisz                    | <u>L</u> |          |                  |          |    |
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Total (Yes) 11 "Click here to type Yes Vote" No 1 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. Porter

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

SB 2100, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2100 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "50-25.1-05.3" with "50-25.1-05"

Page 1, line 6, after the comma insert "information available for use in assessments,"

Page 1, line 16, remove the overstrike over "or", remove the overstrike over the overstruck semicolon and insert immediately thereafter "or", and remove the overstrike over "~~an employee of~~"

Page 1, line 17, after "in" insert an underscored comma and remove the overstrike over "~~public or private school or~~"

Page 4, line 15, remove "veterinarian,"

Page 4, line 17, remove "or"

Page 4, line 18, remove "school personnel, schoolbus driver"

Page 5, replace lines 23 through 30 with:

**"SECTION 5. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-05. Assessment.**

1. The department, in accordance with rules adopted by the department, immediately shall initiate an assessment, or cause an assessment, of any report of child abuse or neglect including, when appropriate, the assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.
2. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department and an appropriate law enforcement agency shall coordinate the planning and execution of their investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. The department or the law enforcement agency may ~~refer~~:
  - a. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services. ~~The department or appropriate law enforcement agency may interview~~
  - b. Interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator. ~~The department or law enforcement agency may conduct~~
  - c. Conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.

3. Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional human service center shall disclose to the department or the department's authorized agent, upon request, the records of a patient or client which are relevant to an assessment of reported child abuse or neglect."

Renumber accordingly

2007 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2100

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2100**

**Senate Judiciary Committee**

☒ Check here for Conference Committee

Hearing Date: April 4, 2007

Recorder Job Number: 5755

Committee Clerk Signature

*Mona L. Salberg*

**Minutes:** Relating to reports written on persons reporting alleging child abuse or neglect.

**Senator Nething**, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

**Sen Lyson** requested that a house member review the amendment and tell the committee why they did what they did.

**Rep. Porter** reviewed the amendment. Some of the amendment was agreed to have had been changed by the Senate, but the intern missed the change in his amendment. Rep. Porter also stated the school personnel, includes the bus driver already in current language, they are not part of the mandatory reporting process. **Sen. Lyson** stated that there are certain individuals that deal very closely with the children ie., bus driver, and they should be a mandatory reporter. Discussed the term "employee of" and who is mandatory and who is not.

**Rep. Porter** stated that if we include everyone than we better put a fiscal not on the bill to train everyone in the reporting process. They discussed the reporting process verses the

mandatory reporter, in service programs. **Sen. Lyson** gave a scenario (meter 7:00) **Rep.**

**Hatlestad** had value in school the school policy mandating it, in witch he replied that you can not mandate a school policy. In sec. 5 they removed language to say the investigation and disposition, is still done by Human Services or the Law enforcement. They are trained to do it

correctly/legally and schools may not be. They had discussion of law enforcement part in the process.

Section 3 had to do with HIPPA record issues.

**Sen. Lyson** still had great concerns for the bus driver activities in the bill stating that more things happen on a bus then anywhere else.

**Sen. Olifson** agreed with him. They discussed the mandating of the bus driver in the policy.

Line 2, line 6 refers only to the title

**Senator Lyson**, Chairman closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2100**

**Senate Judiciary Committee**

☒ Check here for Conference Committee

Hearing Date: April 6, 2007

Recorder Job Number: 5835

Committee Clerk Signature

*Mario L. Solby*

**Minutes:** Relating to reports written on persons reporting alleging child abuse or neglect.

**Senator Nething**, Chairman of the conference committee called the members to order. All Senators and Representatives were present. The hearing opened with the following work:

**Sen Lyson** opened the meeting stating that from what he understands the issues he had in the last conference committee is covered in another part of the century code.

**Bev Nielson** and **Sen. Lyson** discussed that if a bus driver witnesses a crime they are obligated to report the crime. The House members were comfortable with what is in current language.

**Tara Molhauser**, Dir. of Human Services stated that we have to be careful of mixing harassment verses child abuse and neglect issues. If a criminal act takes place between two children on a bus, it would depend on how the school policy states it. Our concern is if they come on the bus with a bruise and states that if the bus driver overhears a conversation, he should mandatory report it. At the time we put the language in to include "all school personnel", this looked like it included school bus drivers. We were reminded that some bus drivers are contract employees, and that is why we wanted them included. She spoke of an incident that occurred.

**Rep. Porter** stated this was discussed in the house and how many times has anyone in the past charged for failure to report? She did not know, many times this is discussed out. **Rep.**

**Porter** made said we should make a blanket statement of a law and do not pick and choose people-why not the clerk at JC Penney. **Tara** replied that the public does not like large blanket sweeps like this along with our system could not support this. **Sen. Lyson** spoke to a situation. **Sen. Olafson** reviewed the people who are to report, every one other than a foster parent would have training and could do it-except for the bus driver- and he could get charged with a class B misdemeanor. **Sen. Lyson** spoke of an incident of a cook who did not report a crime that they new about.

**Sen. Olafson** made the motion that the Senate accedes to the House amendment Rep. **Porter** seconded the motion. All members were in favor and the motion passé.

**Senator Lyson**, Chairman closed the hearing.

Date: 4-6-07  
Roll Call Vote # 1081

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2100

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☒ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Senate Accede to the House Amendments

Motion Made By Sen. Olafson Seconded By Rep. Porter

| Senators        | Yes | No | Representative | Yes | No |
|-----------------|-----|----|----------------|-----|----|
| Sen. Lyson      | ✓   |    | Rep. Hatlestad | ✓   |    |
| Sen. Olafson    | ✓   |    | Rep. Porter    | ✓   |    |
| Sen. Marcellais | ✓   |    | Sen. Schneider | ✓   |    |
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Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

**REPORT OF CONFERENCE COMMITTEE**

**SB 2100, as engrossed:** Your conference committee (Sens. Lyson, Olafson, Marcellais and Reps. Hatlestad, Porter, Schneider) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 907-908 and place SB 2100 on the Seventh order.

Engrossed SB 2100 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

SB 2100

1-10-07

**Testimony**  
**Senate Bill 2100 – Department of Human Services**  
**Senate Judiciary Committee**  
**Senator Dave Nething, Chairman**  
**January 10, 2007**

Chairman Nething, members of the Senate 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 provide you with an overview of Senate Bill 2100. 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 2005, we received 3,956 reports of child abuse and neglect, involving 6,972 potential victims. This is a number that has remained steady in the past five years. Of the total number of reports received, 792 cases were determined to be "Services Required" involving 1461 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 some amendments to the current law addressing several issues that will allow for greater clarity, efficiency, and more comprehensive protection for children.

Section 1 of the Amendment concerns definitions. We are asking that employees of public or private schools be removed. This would mean that Child Protective Services would no longer conduct Child Protective Assessments when the reported abuse or neglect involved a teacher and student. Schools have their own processes in place for investigation of these incidents and we believe it is an issue best addressed by school administrators, School Boards, law enforcement, and parents. In addition, Child Protective Services has no real authority to enforce any recommendations or decisions made by local Child Protection Teams. The Juvenile Court has no jurisdiction in cases when the parent is not the alleged subject of the abuse or neglect.

Also in the definition section, a request is made to bring the definition of "abused child" within the already existing definition of "child abuse and neglect" in NDCC 14-09-22 - Abuse or Neglect of a Child-Penalty (referencing definitions in the criminal code section 12.1-01-04 as cited in NDCC section 14-09-22(1)(a)). Also, this amendment would bring "sexually abused child" within the definitions currently found in NDCC chapter 12.1-20; the Sex Offenses chapter of the North Dakota Century Code. This will provide greater clarity as there will be one universal definition of child abuse and neglect. This change also removes the definition of "harm" as it is no longer needed to define "child abuse and neglect".

Since its inception, Child Protective Services in North Dakota, and nationally, has relied on the statutory distinction of the professional "mandated reporter". This bill proposes adding a couple categories to the list of mandated reporters. School personnel, school bus drivers, and foster parents are requested additions because they have significant contact with children on a daily basis. Veterinarians are also proposed because of the clear link research has established between animal maltreatment and child maltreatment. This research is quite new and has been the basis for twenty-two other states adding this or similar categories of personnel in the animal care profession to their lists of mandated reporters.

Section 3 of the bill proposes some clean-up language to 50-25.1-03.1 to clarify that a child is not the "subject" of a child abuse and neglect report; an adult is the subject.

Section 4 proposes to add school counselor and division of juvenile services staff to the list of entities responsible for providing information to the coroner or the child fatality review panel so that we are able to do more thorough work on cases where there has been a child fatality.

Section 5 provides us with the authority to refer reports involving school personnel (in keeping with the change in the first section) to the requisite school board.

Finally, Section 6 of this bill proposes that the department be given the legal authority to protect the identity of not only persons reporting child abuse and neglect (which already exists), but also persons

supplying information for the child abuse and neglect report or assessment. These folks are often referred to as "collateral contacts" by social workers. These collateral contacts can be unwilling to become involved or provide information because we can offer them no assurance that their identity will be protected when the completed assessment report is given to the subject of the report. This will give us greater authority to provide identity protection for those people willing to share information with social workers as a part of the assessment process.

Thank you very much for the opportunity to appear in support of this bill today. I will be available to answer any questions you have.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2100

Page 4, line 17, after "child care" strike "center or any other child care"

Page 4, line 18, after "enforcement officer" insert "juvenile court personnel, probation officer, Division of Juvenile Service Staff"

Page 5, line 3, overstrike "is", "remove" "child identified in", overstrike "a", remove "child abuse and neglect", overstrike "report", and insert immediately thereafter "person or official has knowledge or reasonable cause to suspect is an abused or neglected child"

Page 5, line 3, overstrike "is", remove "child identified in", overstrike "a", remove "child abuse and neglect", overstrike "report", and insert immediately thereafter "person or official has knowledge or reasonable cause to suspect is an abused or neglected child"

Page 5, line 28, after "school board" insert "and school administration".

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2100

Page 4, line 17, after "child care" strike "center or any other child care"

Page 4, line 18, after "enforcement officer" insert "juvenile court personnel, probation officer, Division of Juvenile Service Staff"

Page 5, line 3, after "child who" insert "the person or official has knowledge of or reasonable cause to suspect" after strike "is the subject of child identified in a child abuse and neglect report"

Page 5, line 28, after "school board" insert "and school administration".

16  
1-17-07

Prepared by Work Group  
Sen. Olafson, Sen. Fiebiger & Sen. Marcellais  
01/11/2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2100

Page 4, line 17, after "child care" strike "center or any other child care"

Page 4, line 18, after "enforcement officer" insert "juvenile court personnel, probation officer, Division of Juvenile Service Staff"

Page 5, line 3, after "child ~~who~~" insert <sup>who</sup> "the person or official has knowledge of or reasonable cause to suspect" after strike "is the subject of child identified in a child abuse and neglect ~~report~~"

Page 5, line 28, after "school board" insert "and school administration".

**NDLA, S JUD**

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**From:** Olafson, Curtis  
**Sent:** Friday, January 12, 2007 1:06 PM  
**To:** NDLA, S JUD  
**Subject:** FW: Update on Child Abuse and Neglect Section 50-25.1-03 (SB2100)

Amendment for 2100

-----Original Message-----

From: Tara L. Muhlhauser [mailto:somuht@nd.gov]  
Sent: Thursday, January 11, 2007 5:18 PM  
To: Olafson, Curtis  
Cc: Leer, Julie P.  
Subject: Update on Child Abuse and Neglect Section 50-25.1-03 (SB2100)

Senator Olafson,

After of quick check with those in CFS of longer standing, we're be fine with "child care worker" rather than the existing "child care center or any other child care worker" as found in the current language of SB 2100. Thanks for you work on this in the past couple of days. Let me know if you have any additional questions.  
Tara

Tara Lea Muhlhauser, J.D.  
Deputy Director, Children and Family Services Division Child Protective Services  
Administrator ND Department of Human Services 600 E Boulevard Bismarck, ND 58505  
701.328.3587

Att # 2a  
1-10-07

**Testimony  
SB 2100  
Senate Judiciary Committee**

**Chairman Nething, members of the Committee, my name is Kathy Hogan. I am the Director of Cass County Social Services and I am here today representing the ND County Social Service Director's Association. We speak in support of this bill with some suggestions for your consideration.**

**Senate Bill 2100 is the result of efforts to review current child protective services practices and is generally an effort to assure compliance with current practice and federal requirements. The counties provide the majority of the child protective services described in this chapter. Although there is not a fiscal note attached to this bill, there are costs primarily funded through the counties. I recognize that you are not the appropriations committee but as policy decisions are made, it is important to recognize the financial implications, particularly in a time when concerns about local property taxes are high.**

**In late 1980, when counties were originally designated to provide child abuse neglect assessment, reimbursements were to cover 100% of actual cost. Currently counties are reimbursed from a variety of sources at between 55% and 60% of actual costs. Attached is a list of county priority funding requests that have been shared with the Department of Human Services and 100% funding for child abuse neglect is the number one item in the area of child welfare.**

**Attached is a list of questions and issues on this bill that were generated by the Cass County Child Protection direct service staff and child welfare legal team for your consideration. If you would like me to review them with you I will answer any questions you may have.**

**Thank you for your consideration**

Att # 26

1-10-07

## ND County Social Service Director's Association Budget position statement December 2006

**Background:** County Social Service agencies provide three core public human service functions: economic assistance; child welfare services; and home and community based services for the elderly and persons with physical disabilities. Financial responsibility for the administration of economic assistance programs is a full county responsibility. Funding for core social service programs – child welfare and home and community based services has been shared between federal, state and county sources. Over the last four to six years, the county financial responsibility for social service programs has been increasing because of additional program responsibilities and increased county program costs. From the 2003-2005 biennium to the 2007-2009 biennium budget there has been an 69% increase in county share of program costs for child welfare services. With higher program standards and expectations, there have not been reimbursement increases and there have been actual decreases in reimbursements, particularly from federal resources. County based social services programs have become more and more dependent on property taxes. **We strongly urge the ND Legislature to consider increasing reimbursements for county based programs to more appropriately fund state/federal mandated services.**

### **Child Welfare Funding (listed by priority)**

*Child Abuse Neglect Funding:* We urge the Legislature to return to funding the actual cost of child abuse/neglect assessments. This funding was begun in the late 1980. Currently child abuse neglect is reimbursed between 55% and 65% of cost.

Total cost \$3,530,720  
General fund cost \$3,530,720

*Child Care Licensing Funding:* We urge the Legislature to return to funding 50% of the actual cost of child licensing activities. This funding began in the late 1990 and reduced in 2004. Currently child care licensing is reimbursed at approximately 35% of cost.

Total cost is \$195,480

*Family Preservation/Support Services:* We urge the Legislature to expand funding for county based family preservation services through both an inflationary adjustment and through program enhancement, including permanency funds.

Estimated cost: \$1,500,000

*Children in Department of Human Service Custody:* We urge the Legislature to fund case management services for children in the legal custody of the Department

Total cost \$396,000  
General fund cost \$301,198

*Family Preservation/Support Services – private agencies:* We urge the Legislature to expand funding for private agencies that provide specialized services for high risk families.

Total cost \$1,009,668  
General fund cost \$1,009,668

*Child Welfare legal services:* We urge the Legislature to expand funding for specialized child welfare legal services both through county state's attorney's contracts and through the ND Attorney generals office.

Total cost \$191,642  
General fund cost \$191,642

*Increase Adoption pay points:* We urge the Legislature to increase reimbursement for child welfare adoption service providers

Total cost \$499,951  
General Fund cost \$319,469

Att # 2c

1-10-07

Questions from direct service staff regarding SB 2100

Section 1 - 50-25.1-02 - Definitions

1. "a person responsible for the child's welfare" means a person who has responsibility for the care or supervision of and child and who is the child's parent, an adult family member of the child *(the definition of a family member is vague- is this the immediate/nuclear family or can it be extended family which we support), any member of the child's household.* *(This need's further definition of what household means, examples are; does this mean current, what about the step-father that abused the child in the past but not in the home now, does this mean current home what if the child is staying at arelatives but still in custody of parent, whose household? Does this include sibling?), the child's guardian, the child's foster parent, or any person providing care for the child in a child care setting.*

13 "Protective services" Concern is that this encompasses the entire Child Welfare continuum of service and there is no funding attached to this. The primary focus of this bill is child abuse neglect assessments but this broad definition includes a very wide range of services and without basic funding for assessments or child welfare services, the counties are concerned about major unfunded mandates particularly as it relates to the Department ability to designate responsibility.

Section 2 - 50-25.1-03

We support these definitions but are concerned that juvenile court personnel, probation officers and Division of Juvenile Services are not listed. It may have been assumed that they were included in the definition of law enforcement but we believe that they specifically excluded from the definition of law enforcement in NDCC chapters 27-20 and 27-12.

Section 3 - 50-25.1.03.1

Photographs Concern is that according to the wording, the pictures can not be taken until a report is filed implied by the wording that "child identified in a child abuse and neglect report. At times pictures are taken prior to the report being filed.

**Suggested revision:** change line 3 - visible on a child who is or may be the child identified in a child abuse and neglect report

Section 5 50-25.1-05.3

We support this amendment to eliminate the involvement in child protective services in school based allegations.

**Suggested revision:** "local school board or school administration" or "school district administration of jurisdiction"

"Any person who is the subject of a report, provided, however, that the identity of persons reporting or supplying information under this chapter is protected."

Concern that we have is twofold:

1. This directly conflicts with the discovery requirements- Provision for disclosure
2. What about appeals process? This also conflicts with this area

**Suggested revision:** "Any person who is the subject of a report, provided, however, that the identity of persons reporting or supplying information under this chapter is protected; absent of order of the court"

**Testimony**  
**Engrossed Senate Bill 2100 – Department of Human Services**  
**House Human Services Committee**  
**Representative Clara Sue Price, Chair**  
**March 13, 2007**

Chair Price, members of the House Human Services Committee, I am Tara Lea Muhlhauser, Deputy Director of the Children and Family Services Division and Program Administrator for Child Protection Services, of the Department of Human Services. I am here today to provide you with an overview of Engrossed Senate Bill 2100. The Department supports passage of this bill.

Child Protection Services, under the authority of NDCC chapter 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 2005, we received 3,956 reports of child abuse and neglect, involving 6,972 potential victims. This is a number that has remained steady in the past five years. Of the total number of reports received, 792 cases involving 1461 victims received a "Services Required" determination. A "Services Required" determination 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 proposes changes to the current law which will allow for greater clarity, efficiency, and more comprehensive protection for children. In addition, I have an amendment to offer.

Section 1 concerns definitions. We are asking that employees of public or private schools be removed from the "caregiver" definition. This would mean that Child Protection Services would no longer conduct Child Protection Assessments when the reported abuse or neglect involved a teacher or school employee and a student. Schools have their own processes in place for investigation of these incidents and we believe it is an issue best addressed by school administrators, School Boards, law enforcement, and parents. In addition, Child Protection Services has no real authority to enforce any recommendations or decisions made by local Child Protection Teams. The Juvenile Court has no jurisdiction in cases when the parent is not the alleged subject of the abuse or neglect, thus we are not able to enforce protective arrangements for children.

Also in the definition section, a change is made to bring the definition of "abused child" within the existing definition of "child abuse and neglect" in NDCC 14-09-22 - Abuse or Neglect of a Child-Penalty (referencing definitions in the criminal code section 12.1-01-04 as cited in NDCC section 14-09-22(1)(a)). Also, this amendment would bring "sexually abused child" within the definitions currently found in NDCC chapter 12.1-20; the Sex Offenses chapter of the North Dakota Century Code. This will provide greater clarity as there will be one universal definition of child abuse and neglect. This change also removes the definition of "harm" as it is no longer needed to define "child abuse and neglect".

Since its inception, Child Protection Services in North Dakota, and nationally, has relied on the statutory distinction of the professional "mandated reporter". This bill proposes adding a couple categories to the list of mandated reporters. School personnel, school bus drivers, and foster parents are requested additions because they have significant contact with children on a daily basis. Veterinarians are also proposed because of the clear link research has established between animal maltreatment and child maltreatment. This research is quite new and has been the basis for twenty-two other states adding this or similar categories of personnel in the animal care profession to their lists of mandated reporters. Juvenile court personnel, probation officers, and division of juvenile services employees have also been added.

Section 3 of the bill proposes some clean-up language to 50-25.1-03.1 to clarify that a child is not the "subject" of a child abuse and neglect report; a person suspected of abusing or neglecting a child is the subject.

Section 4 proposes to add school counselors and division of juvenile services staff to the list of those responsible for providing information to the coroner or the child fatality review panel so that Child Protection Services and the Child Fatality Review Panel are able to do more thorough work on cases where there has been a child fatality.

Section 5 provides Child Protection Services with the authority to refer reports involving school personnel (in keeping with the change in the first section) to the requisite school board and school administrator.

Finally, Section 6 of this bill proposes that the Department be given the legal authority to protect the identity of not only persons reporting child abuse and neglect (which already exists), but also persons supplying information for the child abuse and neglect report or assessment. These folks are often referred to as "collateral contacts" by social workers. These collateral contacts can be unwilling to become involved or provide information because the Department can offer them no assurance that their identity will be protected when the completed assessment report is given to the subject of the report. This will give the Department greater authority to protect the identity of people willing to share information with social workers as a part of the assessment process.

One additional issue; I offer an amendment to ESB 2100 that allows information sharing between the Department's Human Service Centers and local county child welfare agencies who are conducting Child Protection Services Assessments as authorized agents of the Department. This proposed language is needed to clarify and allow information sharing, in light of federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements.

Thank you very much for the opportunity to appear in support of this bill today. I am available to answer any questions.

## PROPOSED AMENDMENT TO ENGROSSED SENATE BILL NO. 2100

Page 1, line 2, after "50-25.1-04.4", insert ", 50-25.1-05"

Page 1, line 6, after "welfare", insert ", information available for use in assessments"

Page 5, after line 22, insert:

**"SECTION 5. AMENDMENT.** Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**50-25.1-05. Assessment.** The department, in accordance with rules adopted by the department, immediately shall initiate an assessment, or cause an assessment, of any report of child abuse or neglect including, when appropriate, the assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.

1. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department and an appropriate law enforcement agency shall coordinate the planning and execution of their investigation efforts to avoid a duplication of factfinding efforts and multiple interviews.
  - a. The department or the law enforcement agency may refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services.
  - b. The department or appropriate law enforcement agency may interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator.
  - c. The department or law enforcement agency may conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.
2. Except as prohibited under title 42, Code of Federal Regulations, part 2, a regional human service center shall disclose to the department or its authorized agent, upon request, the records of a patient or client which are relevant to an assessment of reported child abuse or neglect."

Renumber accordingly

**TESTIMONY ON SB 2100**  
**HOUSE HUMAN SERVICES COMMITTEE**

March 13, 2007

Valerie Fischer, Director of School Health

Department of Public Instruction

328.4138

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Good Morning Madam Chair and members of the committee – I'm Valerie Fischer, Director of School Health for the Department of Public Instruction. On behalf of the Department, I am here to offer amendments to SB 2100 as it relates to the investigation section.

On page 1, line 17 currently deletes school and school employees from the definition of a person responsible for the child's welfare. We would like to have that corrected to have both the school and its employees included.

The second amendment we request is referenced on page 5, lines 28-30. Currently the bill reads "... the department (DHS) may refer the report to an appropriate law enforcement agency or to a local school board and school administrator for investigation and disposition". The Department of Public Instruction, along with ND Council for Educational Leaders and ND School Boards Association request to have "or to a local school board and school administrator" removed from the bill language. Section 5 deals with the disposition of reports implication a person not responsible for the child's health or welfare. As school personnel will be identified in Section 1 page 1 as responsible, the reference to school boards and administrators is not warranted in this section.

This amendment has been discussed with DHS staff and they are in agreement. Thank you for your time - I'll interested in answering any questions you may have.

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2100**

Page 1, line 16, remove the overstrike over "or", remove the overstrike over "~~an employee of~~"

Page 1, line 17, remove the overstrike over "~~public or private school~~"

Page 5, line 29, overstrike "or to a local school board and school administrator"

Renumber accordingly