



Testimony Prepared for the **House Judiciary Committee**
SB 2037 – Relating to Juvenile Court Petitions and Fitness to Proceed
March 10, 2025
Lynn Flieth, RSR Human Service Zone Director

Chair Klemin, and members of the House Judiciary Committee, my name is Lynn Flieth. I am the Director for the RSR Human Service Zone, which includes the counties of Ransom, Sargent, and Richland, and I am a member of the Human Service Zone Directors Association. I am here to testify regarding SB 2036, which relates to changes in the Juvenile Court Act surrounding Fitness to proceed.

Human Service Zones are mandated to provide economic assistance and child welfare services, including child protection, foster care, in-home case management, and referral intake for CHINS (Child In Need of Services). Human Service Zone Directors are also the legal custodian of children in public custody, primarily the CHIPS (Child In Need of Protection) population.

Extensive work has been done to establish parameters and procedures to determine whether a juvenile is fit to proceed through the court process. Senate Bills 2036 and 2037 clarify the procedure to determine fitness to proceed. The Human Service Zone Directors recognize the unique needs of this population, and we concur that legal remediation and disposition options are necessary to provide youth with just and fair treatment.

However, there are two specific areas which have drawn concern from the Human Service Zone Director's Association.

1. **Availability of Services.** Legal remediation and disposition options (outlined on pages 9-11) include court-ordered "mental health or other available services."

Youth in juvenile court, particularly those lacking fitness to proceed, are likely to have extensive and complex behavioral health needs. They may have unstable or untreated mental health diagnoses, learning disabilities, or low intellectual functioning that hinders their participation in

school and social activities, in addition to their inability to assist in their own defense. For remediation and dispositional services to be actionable, we must be confident that the community services are available to address the youth and ultimately the family's needs. Without a spectrum of statewide service options, children's needs are not met, families are adversely impacted, and treatment is delayed and, in some cases, completely absent. As a system, we need to continue to build statewide comprehensive child services, to include emergency assessment, stabilization and placement, for at-risk and complex needs youth. While there are services available to meet these needs on some level, we don't always have them in the right place at the right time. A CHIPS petition does not automatically open the door for services that youth need.

2. **Unnecessary Child In Need of Protection Findings:** Senate Bill 2036 establishes that "the court may dismiss the delinquency proceeding and direct proceedings under chapter 27-20.3" (page 11, lines 23-25). This chapter of Century Code identifies Juvenile Court Jurisdiction, including CHIPS proceedings.

Dispositional options for a CHIPS juvenile commonly include placing care, custody, and control with the Director of the Human Service Zone. While Human Service Zones currently do have some of these youth in custody, this bill would increase that number, when practice begins to be followed statewide, which presents several concerns and challenges.

First, there is an extremely limited number of placement options for these youth in North Dakota — especially placement options that provide the appropriate level of care for these youth. Therefore, this bill could increase the risk of an incorrect level of care for youth, while simultaneously diverting placement resources away from youth who urgently need them. Given that this bill does not increase the availability of placement options, that risk is even higher. It is also worth noting that regardless of whether a youth is a Child In Need of Services, a Child In Need of Protection, or has been adjudicated as Delinquent, the service and placement availability for any of those populations is no different. The only exception is incarceration at the Youth Correction Center, which is rightly reserved for the most severe offenses.

With that said, North Dakota offers families access to an array of service and placement options that are nearly identical to those used by public custodial entities, such as the Human Service Zones, Division of Juvenile Services. These options include psychiatric and residential facilities, which are voluntary in that they do not require families to relinquish custody of their

children to a public agency. There also are a variety of family preservation services available through IV-E funding, including in-home family therapy and behavioral health navigation through the Behavioral Health Division of Health and Human Services. Therefore, a CHIPS petition is not necessary for youth and families to access the available placement and service options.

Related to unnecessary CHIPS petitions, another concern is that Zones have limited capacity and resources to support the custodial increases that will result from expanding the definition and/or use of CHIPS petitions and designations. Important juvenile justice reforms have been developed and implemented over the past several years in our state, and Zones support reduced incarceration in favor of restorative justice, residential treatment, and other remediation and disposition options wherever they are appropriate. However, some of these reforms continue to shift work with populations previously served by the juvenile justice system to the Human Service Zone's child welfare system. There has not been any shift in the allocation of resources to the Human Service Zones to absorb or offset the increased workload. It requires extensive time and effort to locate appropriate services and placement for youth in custody, particularly for delinquent youth who complex mental health and behavioral needs.

In conclusion, the Human Service Zone Directors Association supports many of the juvenile justice enhancements that are outlined in SB 2036, nonetheless we are concerned about the increased workload that Human Service Zones will experience as the result of shifting additional workload from the juvenile justice system to the child welfare system. Therefore, we urge you to remove the allowance for the court to "direct proceedings under chapter 27-20.3" (page 11, lines 23-25) as an alternative to delinquency proceedings.

Thank you for considering my testimony regarding SB 2036. I stand for questions from the committee.