

**Senate Human Services Committee
Senate Bill 2335 – February 13, 2023
Testimony of Rachel Sinness, P&A Legal Director**

P&A protects the human, civil and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

P&A provides testimony in favor of SB 2335 relating to changes in statute to accommodate fetal alcohol spectrum disorder. Approximately 1 in 20 North Dakotans have or will be diagnosed with a fetal alcohol spectrum disorder (FASD). FASD accounts for 1% of live births in North Dakota and is 2.5 times more prevalent than Autism. Despite its prevalence, North Dakota's definition of "developmental disability" currently does not include FASD. Exclusion from basic definitions, lack of training, and lack of screening and treatment result in an inability to receive developmental disability services, high rates of incarceration and recidivism among those who have FASD, and higher than average school exclusion rates.

Alaska, New York, and neighboring state Minnesota have already included FASD in their statutory definitions of "developmental disability." Individuals diagnosed with FASD are entitled to the same level of services as for any other developmental disability and have a basis to get those services provided immediately.¹ Minnesota has also implemented training on the prevention of FASD,² as well as prenatal alcohol exposure screening for children entering foster care,³ much like the efforts put before the North

¹ [FASD: Identification and Advocacy \(americanbar.org\)](#)

² [Sec. 245A.175 MN Statutes](#)

³ [Sec. 260C.219 MN Statutes](#)

Dakota Legislature through this proposed legislation. While Minnesota’s legislation is relatively new, having been adopted in 2022, the state is seeing encouraging results in the identification of children with prenatal exposure to alcohol and FASD training,⁴ and families are receiving much needed supports.⁵

On a national level, the FASD Respect Act has been introduced in Congress and has received wide bipartisan support. The bill seeks to “direct the Department of Health and Human Services, the National Institutes of Health, the National Center on Birth Defects and Developmental Disabilities, and the Health Resources and Services Administration to carry out and coordinate research, surveillance, and related activities to diagnose, prevent, and treat FASD.”⁶ It also establishes grant programs to provide services for individuals affected by FASD, among other supports.⁷ To keep up with national trends toward making FASD more visible and to provide services to individuals diagnosed with FASD, the legislation proposed in SB 2335 is a must to North Dakotans.

P&A further supports implementation of the path laid out in the Alvarez and Marsal study presented to the 2021-23 interim Human Services Committee, leading to a fully modern home and community-based waiver system. Like the Department of Health and Human Services (Department) and numerous advocacy groups, we view the cross-disability council as a key component of that project. P&A supports implementation of the path laid out in the Alvarez and Marsal study presented to the 2021-23 interim Human Services Committee, leading to a fully modern home and community-based

⁴ [Landmark Legislation: A Victory for the FASD Community - Proof Alliance](#)

⁵ [Support - Proof Alliance](#)

⁶ [H.R.4151 - 117th Congress \(2021-2022\): FASD Respect Act | Congress.gov | Library of Congress](#)

⁷ [Id.](#)

waiver system. Like the Department of Health and Human Services (Department) and numerous advocacy groups, we view the cross-disability council as a key component of that project.

P&A would like to see vast improvements in this area in North Dakota; we are concerned about the prevalence of FASD, its economic impact on North Dakota and North Dakota families, and the lack of services available to those who are diagnosed with FASD. P&A supports any and all efforts to make FASD more visible in North Dakota and to make treatments available to individuals whom P&A serves. P&A urges a DO PASS on SB 2335.