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**To:** House Judiciary Committee  
**From:** Christopher Dodson, Executive Director  
**Subject:** Senate Bill 2129 - Alternatives to Abortion  
**Date:** March 15, 2023

North Dakota Catholic Conference supports Senate Bill 2129 to expand and improve the Alternatives-to-Abortion program.

The Legislative Assembly authorized the Alternatives-to-Abortion program in 2005. (A history of the program is attached.) Since then, the program has served thousands of women. Correspondingly, during the same years, the percentage of North Dakota pregnant women who choose abortion has dramatically dropped.

The program basics are simple. The state partially reimburses maternity homes, adoption agencies, and pregnancy resource organizations for services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant.<sup>1</sup>

Although the program has been successful, it falls short in three respects that are remedied by Senate Bill 2129.

First, the program only serves pregnant women or women who believe they may be pregnant. It does not include services provided after birth. Helping mothers, fathers, and infants during this time is an important part of providing alternatives to abortion and giving families a healthy and supportive start.

Second, because the program is funded entirely through the Temporary Assistance for Needy Families (TANF) block grant, medical services are not reimbursed. Some of the providers are medical clinics and the restriction limits what services for which the clinic may seek reimbursement.

Third, the reliance on TANF funds has worked up to now, but it subjects the program to the uncertainties of the federal government and places pressure on the state's use of the block grant for other purposes.

Senate Bill 2129 addresses those shortfalls and sets the Alternatives to Abortion program on better footing for a post-*Dobbs* world.

The first part of SB 2129 revises the authorizing legislation by:

- Removing the requirement that the program funds come from the TANF block grant;

- Adds “medical services” within the meaning of “support services”; and
- Adds “parents or other relatives caring for children twelve months of age or younger” to the individuals who can receive services under the program.

Other than these changes, the definition and parameters of the program are substantially the same.<sup>2</sup>

The new language on page 2, lines 5 through 24 results from the decoupling of the Alternatives to Abortion program from the TANF program. TANF has a built-in set of rules commonly called “charitable choice.” These rules protect the religious identity of the provider, prevent the use of the funds for strictly religious activities, and assure that if the recipient of services has an objection to the religious character of a provider, the Department of Health and Human Services (DHHS) will make reasonable efforts to provide an alternative provider.

Because the program is currently funded through TANF, the state and all providers in the Alternatives to Abortion program have operated under these rules since 2005. The rules, however, would not automatically be applied if the program is no longer funded through TANF. For that reason, SB 2129 codifies them into North Dakota law.

The final section provides an appropriation. This section, as amended by the Senate raises some questions.

The current appropriation is \$600,000 a biennium. Because SB 2129 expands who can be served and what services can be reimbursed the bill’s original appropriation was \$1,600,000, a little over double the current appropriation. The Senate Human Services Committee added post-abortion services to the program, increased the appropriation to \$4,000,000, and gave the approval to use American Rescue Plan Act or other federal funds. The Senate Appropriations Committee removed that approval and reduced the appropriation to \$400,000. During the floor debate, it was stated that the appropriation was intended to be in addition to the current \$600,000 in the DHHS budget.

The change raises some questions that need resolution. The current appropriation in the DHHS budget uses TANF funds and is based on the existing law’s authorization to use TANF funds. This bill repeals that authorization. Unless fixed, the appropriation for this improved and expanded program might end up being \$200,000 less than the current appropriation. We support amending SB 2129 to its original appropriation of \$1,600,000 from general funds.

Senate Bill 2129 enhances one of the best programs we have to help those who help them. With these suggestions, we urge a **Do Pass** recommendation on Senate Bill 2129.

<sup>1</sup> Attached to this testimony are three documents providing additional information on the program. They are: (1) A redacted version of the agreement providers enter into with Village Family Services, which administers the program; (2) a copy of the contract between DHHS and Village Family Services; and (3) a recent outcome report that the Village prepares for DHHS.

<sup>2</sup> The one exception is that SB 2129 removes: “The services must be outcome-based with positive outcome-based results.” The language is awkward and representative of the types of services provided. In many cases, women come to the centers, receive services, and may not be seen again. It is sometimes impossible to know the outcomes. For that reason, the language is removed. Nevertheless, every provider does provide detailed information on the outcomes as they know them and this reporting would continue with or without the language. If these reports suffice to meet the language requirements, the North Dakota Catholic Conference is not opposed to keeping the language.

AMENDMENT TO GRANT AGREEMENT

On or about July 1, 2016, the state of North Dakota, acting through its North Dakota Department of Human Services, Economic Assistance Policy Division (Grantor) and The Village Family Service Center (Grantee) entered into a grant agreement to operate the Alternative to Abortion program statewide.

The parties agree that certain parts of that agreement and Amendments A, B, and C should be changed:

1. Effective January 1, 2022, the Scope of Service section is amended to delete the section in its entirety and replace it with the following:

Grantee shall operate the Alternative to Abortion program statewide as defined in subsections a. and b. below.

a. Grantee shall:

- 1) Promote alternative to abortion services;
- 2) Inform the public about the Alternative to Abortion Program;
- 3) Provide a dedicated toll free number to provide available Agencies and locations for individuals needing the services;
- 4) Contract with existing Agencies and future Agencies throughout the state of North Dakota that provide services other than abortion;
- 5) Maintain a list of Agencies;
- 6) Determine the service unit rate paid to Agencies for professionals and paraprofessionals;
- 7) Receive billing based on service units and service unit rates from Agencies;
- 8) Make payments to Agencies based on billing;
- 9) Collect data from Agencies for outcome measures;
- 10) Develop and identify how positive outcomes will be measured from data collected;
- 11) Maintain and provide access to a website with alternative-to-abortion information;
- 12) Identify strategies for continued engagement of women seeking services throughout their pregnancy;
- 13) Identify how services are preventing women from aborting;
- 14) Provide quarterly reports to State to include, at a minimum, the following:
  - a. Number of individuals served
  - b. Services provided to each individual
  - c. Follow-up provided to each individual
  - d. Outcomes of services provided:
    - i. Kept baby
    - ii. Foster care
    - iii. Adoption
    - iv. Aborted (voluntarily or involuntarily)
- 15) Communicate and receive approval for any changes to the services provided from Grantor.

- 16) Provide timelines for the following:
  - a. Promotion of Alternative to Abortion Program;
  - b. Availability and administration of the dedicated toll free number;
  - c. Process of facilitation of services and funding involving Agencies;
  - d. Data collection and outcome measures process; and
  - e. Communication process with Grantor.
- 17) Identify experience in providing counseling services to women who may be pregnant or think they may be pregnant.
- 18) Identify any innovative ideas relating to the administration of the Alternative to Abortion Program.

- b. Grantee shall:
  - 1) Promote alternative to abortion services;
  - 2) Contract with existing agencies and future agencies throughout the state of North Dakota that provide client care service for pre and post abortion, including ongoing client support; and
  - 3) Provide reimbursement to service providers for reasonable administrative and operational costs associated with alternative to abortion and post abortion services.

2. Effective January 1, 2022, the Compensation section, as amended by Amendments A, B, and C, is further amended to increase the total amount paid under the grant from \$2,050,000 to \$3,550,000, an increase of \$1,500,000. For the period July 1, 2021, to June 30, 2023, the total amount paid under subsection 1.a. of this Amendment may not exceed \$600,000, which was made part of the grant through Amendment C. For the period January 1, 2022, to June 30, 2023, the total amount paid under subsection 1.b. of this Amendment may not exceed \$1,500,000. By March 1, 2022, qualified providers of services subcontracted with Grantee pursuant to Section 9 of the grant are entitled to an equal amount of reimbursement for allowable expenses, not to exceed a maximum of \$125,000 each for subsection 1.b.

The funding source for the increase is anticipated as follows:

Federal	\$1,500,000	State	\$
Other	\$	Unknown	\$

Catalog of Federal Domestic Assistance Number 21.027, U.S. Department of Treasury, Coronavirus State Fiscal Recovery Fund.

Federal Award Identification Number: SLFRP1964

Federal Award Date: May 28, 2021

Data Universal Numbering System Number: 070270103

This award is not for Research and Development.

All other terms and conditions remain as previously written.



## Memorandum of Agreement

This Agreement is entered between XXXXXXXXXXXXX (Agency Provider), The Village Family Service Center and the North Dakota Department of Human Services (NDDHS).

NDDHS is responsible for supervision of the Alternatives to Abortion Program. The Village Family Service Center will administer the Alternatives to Abortion Program including marketing, updating and maintaining a list of service providers, making payments to service providers and 1-800 service.

The program will provide positive outcome-based information, counseling, and support services with the following requirements and expectations:

1. Provide services to pregnant women or women who believe they may be pregnant, who reside in North Dakota.
2. Promote childbirth through information, counseling and education to assist pregnant women to choose childbirth.
3. Assist women in making informed decisions about adoption or parenting with respect to the child.

Alternatives to Abortion services do not include medical services.

The Agency Provider desires to provide Alternatives to Abortion services consistent with the requirements of the Alternatives to Abortions Program and to meet the requirements of N.D.C.C. § 50-06-26 and this Agreement. The Agency Provider agrees to:

1. Screen each potential client to establish that she is pregnant or reasonably believes she may be pregnant;
2. Inform each client that it is her right to secure Alternatives to Abortions services from a provider of those services listed in the Alternatives to Abortions brochure;
3. Assist NDDHS and The Village Family Service Center in gathering data to evaluate the Alternatives to Abortions Program from the client's first visit through birth of the child;
4. Keep confidential the communications between a child and provider or its employees and agents, except as permitted by law or by the informed agreement of the client;
5. Submit to NDDHS and The Village Family Service Center a copy of provider's liability insurance policy for approval before requesting payment; and
6. Maintain approved liability coverage in effect at all times services are being provided under this Agreement.

Agency Provider agrees not to:

1. Counsel for, refer for, encourage, or perform abortions, or knowingly refer an Alternatives to Abortions client to another person or agency for the purpose of receiving counseling for, referral for, encouragement for, or the performance of an abortion; or
2. Discriminate against Alternatives to Abortions client on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

Provider for Alternatives to Abortions services will receive reimbursement for services provided based on a rate of \$10.00 for each quarter hour of service furnished by a member of the clergy, a nurse licensed under N.D.C.C. ch. 43-12.1, a physician licensed under N.D.C.C. ch. 43-17, a psychologist licensed under N.D.C.C. ch. 43-32, a social worker licensed under N.D.C.C. ch. 43-41, an addiction counselor licensed under N.D.C.C. ch. 43-45, a counselor licensed under N.D.C.C. ch. 43-47, or a marriage and family therapist licensed under N.D.C.C. ch. 43-53; and at a rate of \$5.00 for each quarter hour of service furnished by any other individual.

This Agreement is effective October 1, 2021, and remains in effect until June 30, 2023, unless terminated by the Agency Provider, The Village Family Service Center or NDDHS.

This Agreement may be terminated at any time by mutual consent of parties, or upon 30-days' written notice by either party, with or without cause. Failure by the Agency Provider to perform the terms of this Agreement may result in the immediate termination of the Agreement.

Agency Provider: XXXXXXXXXXXXXXXXXXXX

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

The Village Family Service Center

\_\_\_\_\_  
Jeff Pederson, President/CEO  
The Village Family Service Center

Date: \_\_\_\_\_

C: Michelle Gee, Director  
Economic Assistance Policy Division  
North Dakota Department of Human Services



## Alternatives to Abortion Outcomes Statistics (part a) 7/1/2021 through 6/30/2022

### 1499 women served

- 1) Number of clients with intention and outcome  
**190** true births reported (10%)
  - 174 Parenting (84%)
  - 14 Adoption (10%)
  - 2 Foster Care (0%)
  - 5 Abortion (6%)
  - 0 Miscarriage (0%)
  
- 2) Number of clients with intention, past due date and no delivery date listed  
**345** clients (23%)
  - 337 Parenting (98%)
  - 9 Adoption (2.5%)
  - 81 Abortion (23%)
  
- 3) Number of clients with no intention, no due date, no delivery date  
**331** clients. (22)%
  
- 4) Number of clients for whom abortion was an option  
**86** clients. (5%)

Of these 86 clients, **8** (9%) outcomes were reported *changing to abortion NOT being an option* at a later point during A2A services.

- 5) Clients who felt pressured about the plans for their pregnancy  
**84** felt pressure of some type (5%)
  - Pressure by Birthfather – 37 (44%)
  - Pressure by Birthfather parents/family – 4 (4%)
  - Pressure by Birthmother parents/family – 22 (26%)
  - Pressure by Husband/boyfriend – 10 (12%)
  - Pressure by Friends – 6 (7%)
  - Pressure by Others – 5 (5%)
  
- 6) Number of clients remaining in service, yet to deliver  
**398** clients (31%)

## **Statistics broken down by Agency Provider:**

### **CONNNECT MEDICAL CLINIC**

**43** Women served  
**23** with a true reported outcome  
**1** with an intention, but no delivery or outcome  
**0** with no intention, no delivery, and no outcome  
**20** are still pregnant, with delivery dates in the future.

### **CATHOLIC CHARITIES ND**

**22** Women served  
**10** with a true reported outcome  
**10** with an intention, but no delivery or outcome  
**0** with no intention, no delivery, and no outcome  
**2** are still pregnant, with delivery dates in the future.

### **CHRISTIAN ADOPTION SERVICES**

**17** Women served  
**5** with a true reported outcome  
**6** with an intention, but no delivery or outcome  
**2** with no intention, no delivery, and no outcome  
**4** are still pregnant, with delivery dates in the future.

### **DAKOTA HOPE CLINIC**

**16** Women served  
**4** with a true reported outcome  
**0** with an intention, but no delivery or outcome  
**0** with no intention, no delivery, and no outcome  
**12** are still pregnant, delivery dates in the future.

### **WOMEN'S CARE CENTER**

**1047** Women served,  
**98** with a true reported outcome, 14% of their total  
**253** with an intention, but no delivery or outcome  
**324** with no intention, no delivery, and no outcome  
**372** are still pregnant, with delivery dates in the future.

### **PERRY CENTER MATERNITY HOME**

**12** Women served  
**0** with a true reported outcome  
**0** with an intention, but no delivery or outcome  
**8** with no intention, no delivery, and no outcome  
**4** are still pregnant, with delivery dates in the future.

**SAINT GIANNA'S MATERNITY HOME**

0 Women served  
0 with a true reported outcome  
0 with an intention, but no delivery or outcome  
0 with no intention, no delivery, and no outcome  
0 are still pregnant, with delivery dates in the future.

**THE VILLAGE FAMILY SERVICE CENTER**

23 Women served  
9 with a true reported outcome  
2 with an intention, but no delivery or outcome  
2 with no intention, no delivery, and no outcome  
10 are still pregnant, with delivery dates in the future.

**GF WOMEN'S PREGNANCY CENTER**

241 Women served  
5 with a true reported outcome,  
58 with an intention, but no delivery or outcome  
70 with no intention, no delivery, and no outcome  
108 are still pregnant, delivery dates in the future.

**RR YOUTH FOR CHRIST (they have had staff challenges)**

0 Women served  
0 with a true reported outcome,  
0 with an intention, but no delivery or outcome  
0 with no intention, no delivery, and no outcome  
0 are still pregnant, with delivery dates in the future.

**USPIRE (Healthy Families)**

78 Women served  
41 with a true reported outcome,  
21 with an intention, but no delivery or outcome  
4 with no intention, no delivery, and no outcome  
12 are still pregnant, with delivery dates in the future.