

Testimony
Senate Bill No. 2103
Senate Human Services Committee
Senator Judy Lee, Chairman
January 4, 2023

Chairman Lee, and members of the Senate Human Services Committee, I am Cory Pedersen, Director of the Children and Family Services Section with the Department of Health and Human Services (Department). I appear before you to support Senate Bill 2103, which was introduced at the request of the Department.

There are several updates necessary for clarification in this bill. Throughout the bill, the provisions which reference a "newborn", which is used to define a neonate, a child younger than 28 days, are amended to reference an "infant" which is a child up to 12 months of age. Also, language has been added to clarify chronic or severe use of alcohol for toxicology purposes, as well as for reporting purposes. Currently, North Dakota Century Code addresses the possible use of a controlled substance, and this will allow for testing to be completed when there is severe or chronic use of alcohol as well.

Section 1. The proposed change on page 1, lines 18 through 21, removes "abuse of alcohol", "alcohol abuse", or "abused alcohol" from the definitions section.

The proposed change on page 2, lines 2 and 3 removes "by any individual, including a juvenile" from the definition of an abused child. As per section 50-25.1-05 of the North Dakota Century Code, a juvenile is not considered someone who is "responsible for a child's welfare or who has responsibility for the care or supervision of a child, and the involvement of a juvenile in the abuse of another juvenile is addressed in

section 50-25.1-05.3 of the North Dakota Century Code regarding disposition of reports implicating a person not responsible for a child's health or welfare.

The proposed change on page 2, lines 5, 7, and 8 replaces "newborns" with "infant" from the definition of an "alternative response assessment". "Infants" is later defined and this change will allow for an alternative response assessment up to 12 months of age, rather than 28 days of age.

The proposed change on page 2, lines 11 through 13, creates a definition of "child abuse information index" which allows for a "categorized registry of subjects of reports confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect".

The proposed change on page 6, lines 11 through 13, replaces "newborn" with "infant". Prenatal exposure to controlled substance is used to refer to the fetal exposure to drug and alcohol use which can significantly increase the risk for developmental and neurological disabilities in a child.

Currently section 50-25.1-02 of the North Dakota Century Code defines a substance exposed newborn as an infant younger than twenty-eight days of age at the time of the initial report. This change in language will reflect the federal definition of substance exposed infants. The definition also removes the word "abuse" and replaces it with "use" to align to language utilized in current practice and further enable the treatment needs of families with substance use to be addressed.

Subsection 24, page 6, line 15 through 18, is added to create a definition of "substance use disorder", based on language in the Diagnostic and Statistical Manual of Mental Disorders published by the

American psychiatric association. This would allow for a response to pregnant women related both to the use of alcohol and of controlled substances.

Section 2. The proposed change amends section 50-25.1-05 of the North Dakota Century Code by adding a reference to “title 34, Code of Federal Regulations, part 99” and to “a public or private school” for the purpose of including schools in the list of facilities that are required to disclose information to “the Department, or the authorized agent” to enable assessments of child abuse or neglect if permitted by federal law.

Section 3. The proposed change amends section 50-25.1-05.2 of the North Dakota Century Code, which defines the conditions upon which information is entered in the child abuse information index. Subsection 2 is amended to clarify that information will be entered into the index “after the time to appeal the confirmed or confirmed with unknown subject decision has expired”. Subsection 3 is created to clarify that “educational neglect” will not be a basis for filing a report of a “neglected child” for the purpose of the child abuse information index.

Section 4. The proposed change amends section 50-25.1-05.5 of the North Dakota Century Code to define the length of time a report shall remain on the child abuse information index and provides clarification on the index retention schedule and expungement procedures from those confirmed subjects of child abuse, neglect, or death resulting from abuse or neglect. The current language does not reference a timeframe or retention or expungement procedure.

Section 5. The proposed change amends section 50-25.1-16 of the North Dakota Century Code. Subsection 3 removes language to better align to child protective services practice and replaces the word “may” with “must” when addressing the initiation of an assessment to address

the use of a controlled substance by a pregnant woman. This would include a referral for assessment when the "presence of a substance use disorder" is noted, and the "expectation to follow any treatment recommendations". The word "or" is removed and replaced with "and" to add the expectation of follow-through for a referral for prenatal care.

Subsection 4 was amended to include "continues to use controlled substances for a nonmedical purpose" as a trigger for reporting to occur.

Section 6. The proposed change amends section 50-25.1-17 of the North Dakota Century Code to add reference to "or severe or chronic use of alcohol" to the list of reasons that toxicology testing may occur after delivery where obstetrical complications have occurred. Current language only addresses the use of controlled substances, which does not include alcohol.

Section 7. The proposed change amends section 50-25.1-18 of the North Dakota Century Code to replace "alcohol abuse" with "severe or chronic use of alcohol" to better address prenatal exposure to severe or chronic use of alcohol for reporting purposes and to provide consistency with the Diagnostic and Statistical Manual of Mental Disorders.

By including alcohol in toxicology testing requirements, providing clarification on the chronic or severe use of alcohol during pregnancy and expanding the defined age for substance exposure from "newborn" to "infant" will allow for the identification and provision of services as required under the comprehensive addiction and recovery act's amendment of the Child Abuse Prevention Treatment Act (CAPTA) which requires that states have plans of safe care for substance exposed infants.

This concludes my testimony. I would be happy to try to answer any questions the committee may have. Thank you.