

**Testimony**  
**House Bill No. 1034**  
**House Judiciary Committee**  
**Representative Lawrence Klemin, Chairman**  
**January 15, 2025**

Chairman Klemin and members of the House Judiciary Committee, my name is Julie Hoffman, Adoption Administrator with Children and Family Services Section under the Department of Health and Human Services (Department). I appear before you in support of House Bill No. 1034, which was introduced at the request of the Juvenile Justice Interim Committee. This bill addresses potential reinstatement of parental rights.

This bill was drafted and introduced as a result of an interim study commissioned by the 68<sup>th</sup> Legislative Assembly, in 2023 House Bill No. 1091 (section 20) tasking the Department, with the assistance from other stakeholders, including the North Dakota Supreme Court, Human Service Zone directors, and the ND Association of Counties, to review the option of reinstating parental rights that have been terminated by the court. The study resolution directed a report on the process of this study to legislative management by August 1, 2024.

The workgroup, facilitated by Children and Family Services section, met January through March 2024 and included those individuals listed in the attachment at the end of this testimony. The group met every other week during this period. The group reviewed information from the [National Conference of State Legislatures on Reinstatement of Parental Rights](#), which summarized all state legislation to that point on this matter. At that time, 22 states had such a statute. The group looked at data related to termination of parental rights. We discussed cases where such a statute would have been applicable and helpful, and determined to

move forward to draft legislation that would meet North Dakota's need. We looked further into the statutes of five states (Minnesota, Texas, Washington, Maine and Nevada) to compare and contrast the content of these statutes. The group appointed three members to draft proposed legislation, making recommendations of the main points for inclusion.

The main points of this proposed legislation include:

- Petition may be brought by a party from the original termination of parental rights (TPR) proceeding.
- 12 months since the final order for TPR.
- The child has not been adopted or there is not a written adoption placement agreement.
- The court shall consider the child's age, maturity, and ability to express a preference and may consider the child's preference regarding the reestablishment of parental rights.
- A prima facie review of the Petition will occur upon the filing of a petition for reestablishment of parental rights.
- The court may dismiss the petition if it finds that the petition has not established a case justifying reinstatement and will set a hearing date for an evidentiary hearing if the petition does not establish a prima facie case.
- Counsel will be appointed for the child regardless of income. Counsel for birth parents subject to indigency.
- The court may order a trial home visit to create a transition plan.
- The burden of proof for the petitioner is "clear and convincing" evidence.
- A petition for the reestablishment is not allowed if the subject of the petition has previously had parental rights terminated based on a finding in a legal proceeding of either sexual abuse or other has a

conviction for intentional conduct that resulted in the substantial bodily injury or death of a minor.

- If the court denies a petition under this chapter after a hearing, the court may issue a written order barring the filing of subsequent petitions by the genetic parent.

As of January 1, 2025, there were 119 children in foster care who have a termination of parental rights where the termination order was granted more than one year ago. Of those, twenty-three children are in an adoptive placement and an additional six have had their adoptions finalized (as of January 7, 2025). For the remaining 90 cases, it is unknown how many birth parents might have remediated circumstances that would allow for a filing a petition for their parental rights to be reinstated. We anticipate the number of cases that will come before the court for reinstatement to be a small number each year.

The Department supports the passage of House Bill No. 1034 as we believe that although this option will not be used frequently, it could benefit children who have been in care for whom we have not been able to effectuate permanency, and their birth parents have become a viable option for permanency.

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

## **Reinstatement of Parental Rights Workgroup Information:**

- **Group meeting times:** January 2024 through March 2024
- **Cadence:** Twice per month until report out
- **Reporting Responsibility:** to the Legislative Council in May 2024
- **Team Membership:**
  - Judge Jay Knudson, District Court Judge, Northeast Central Judicial District
  - Heather Traynor, Court Improvement Program
  - Travis Finck, Indigent Defense
  - Karen Kringle, Director, Unit 2, Juvenile Court
  - Ashley Leis, Executive Director, States Attorney Association
  - Aaron Webb, Legal Advisory Unit, HHS
  - Rebecca Jund, Cass County States Attorney
  - Lisa Piche/ Leah Honeyman, FSS Supervisor, CFS/HHS
  - Rhonda Allery, Director, Mountain Lakes HSZ
  - Chelsea Flory, Director, Burleigh County HSZ
  - Kristen Hasbargen, Director of Zone Operations, HHS
  - Cory Pedersen, Director, CFS/HHS
  - Dean Sturn, Permanency Administrator, CFS/HHS, Co-Facilitator
  - Julie Hoffman, Adoptions Administrator, CFS/HHS, Co-Facilitator