

Testimony Prepared for the
House Judiciary Committee
DATE; January 21, 2025
By: Lynn Flieth, RSR Human Service Zone Director

RE: HB 1328: Relating to the definition of “custodian” and Juvenile Court referrals

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. In addition, I am a member of the North Dakota Human Service Zone Director Association. I am here today to provide testimony in opposition of HB 1328.

Human Service Zones are mandated to provide economic assistance and child welfare services, including receiving CHINS (Child In Need of Services) referrals. The RSR Human Service Zone is the employing entity for the statewide CHINS (Children In Need of Services) Unit.

I would like to provide some background on the legal changes which lead to the creation of the CHINS Unit as it relates to ungovernable behavior exhibited in school. In 2021, NDCC 27-20 was updated to define CHINS behaviors (formerly “unruly”) to include 4 specific behaviors: truancy, running away, disobeying the reasonable commands of a parent/custodian, and smoking/vaping under the age of 14. This law change fully removed the Juvenile Court’s jurisdiction related to the CHINS population. Instead, referrals are directed to Human Service Zones. There was no fiscal note or appropriation attached to this law change.

At that time additional changes to the Juvenile Court Chapters in 27-20, included the provision that “a child who commits an infraction or misdemeanor offense on school property may not be referred to the juvenile court unless school interventions have been unsuccessful.”

I would like to provide some information on the operations of the CHINS Unit. On August 1, 2022, the statewide CHINS Unit became operational, which includes a total of eight team members, including one Supervisor who carries a smaller caseload. In the first year of operation, the unit received 2,491 referrals. In 2024, the unit received 2,117 referrals. (See attached CHINS Data handout).

CHINS Specialists serve as navigators who reach out to families to offer support and information, with the guiding principles being to engage, educate and empower parents and/or caregivers. Specialists complete an assessment to best determine what the most significant needs are, and work to engage with families to locate services to address the problematic behaviors. CHINS Specialists collaborate with community partners to develop a plan which supports the family in meeting the behavioral health needs of the identified youth.

HB 1328 proposes to include schools under the definition of “custodian” and would allow referrals for ungovernable youth behavior exhibited in the school to be categorized as a Child In Need of Services because under current law, only the custodian (i.e. parent) can refer for ungovernable behavior. Should the definition of “custodian” change to include schools, the number of referrals to the CHINS Unit would substantially increase. There is no additional appropriation or fiscal note attached to this bill to support the proposed increased workload. The current team of 8 is already taxed with the number of referrals received, and additional personnel would need to be hired for any increased number of referrals.

From my perspective, it is unclear what the actual benefit would be to include youth exhibiting ungovernable behavior in school, as eligible for a referral to the CHINS Unit. Schools already express frustration with the lack of legal jurisdiction or “teeth” for this population in relation to truancy. The role and goals of service navigation for families would be the same for youth referred for being ungovernable in the school setting. A referral to CHINS will not result

in any form of “consequences” for a youth, and family engagement with a CHINS Specialist would remain voluntary.

Because each school is governed locally, there are wide variances in practice, policy and tolerance. Many schools have increased staff to address student behavioral health needs. However those behavioral health supports are limited in availability and are utilized in a variety of ways. Some schools and communities simply do not have ANY supports in this area. This makes providing a consistent response extremely difficult, in an environment of highly variable practices and expectations. The original intent of the previous law changes was to give schools more authority and flexibility to handle school behaviors in-house with individuality and a more tailored, and possibly more effective, response. A referral to an outside entity (CHINS) for a scuffle in the hallway or student who leaves school repeatedly is not likely to resolve the behavior.

Beyond the ability to refer to CHINS, serious questions arise regarding the inclusion of schools as a “custodian”. The term “custodian” is used 28 times in this chapter and each time that it is used, it would now apply to school officials. For example, in 27-20.3-24(2) “the custodian has the rights of a legal custodian and authority to consent to the child’s adoption, marriage, enlistment in the armed forces of the United States, and surgical and other medical treatment.” So, a public and nonpublic school attended by the child would legally be able to consent to adoption, marriage, etc.

Human Service Zone Directors, for example, are identified by the court as the legal custodian for children in public custody (foster care). In this role as custodian, we are tasked with making literal life and death decisions for children in our custody, including granting approval for medical procedures, authorizing out of state travel, medication administration and providing consent for a child to be adopted. It doesn’t seem that this is an appropriate role for schools. If categorized as a custodian, will this alter the assessment process for reports of

suspected child abuse and neglect for school district employees? The designation of schools as a “custodian” could potentially create undesirable liability concerns for the schools, as well as role confusion.

In closing, the Human Service Zone Directors Association oppose this bill. And while it is unclear what the benefit to schools would be to refer to CHINS for “ungovernable” behavior exhibited in the school, if this bill proceeds, it is suggested that rather than designate schools as a “custodian”, NDCC 27-20 be altered to simply allow schools to make such a referral. Additionally, a fiscal note and/or appropriation will need to be included to allow for the hiring of additional staff to the CHINS Unit.

Thank you for consideration of my testimony. I stand for any questions from the committee.

CHILDREN IN NEED OF SERVICES (CHINS)



BACKGROUND

As part of Juvenile Justice Reform efforts in North Dakota, the 2021 Legislature approved changes to NDCC 27-20.3 for services to be provided by the child welfare system so that children in need of services who have not committed crimes can be served in the community and be maintained outside of the Juvenile Court system.

CHINS PROGRAM GOALS

- Connect children and their families to appropriate services in the community;
- Focus on prevention, treatment services and support; and
- Divert individuals from entering the foster care and juvenile justice system.

CHILD BEHAVIORS APPROPRIATE FOR THE CHINS PROGRAM

- Truancy from school
- Regularly disobeying their parents
- Using and possessing tobacco and related products
- Running away

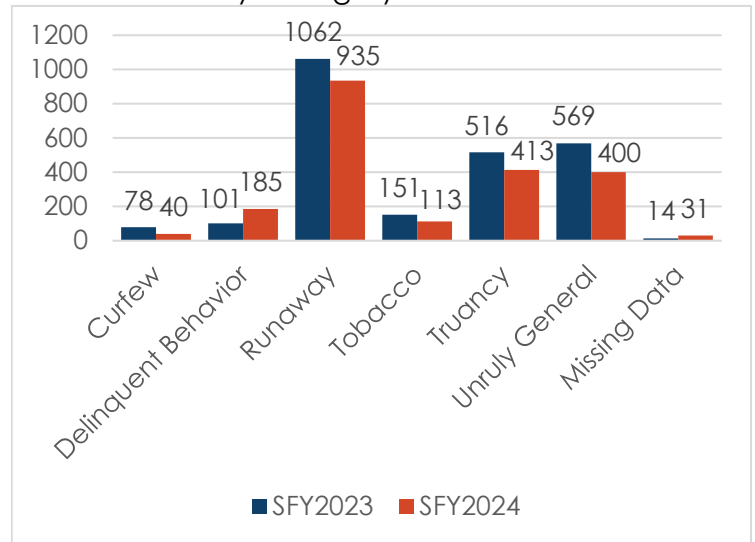
TO REFER TO THE CHINS PROGRAM

Parents, guardians, law enforcement officers, and school officials can refer children to the CHINS Team, staffed statewide by Human Service Zone professionals.

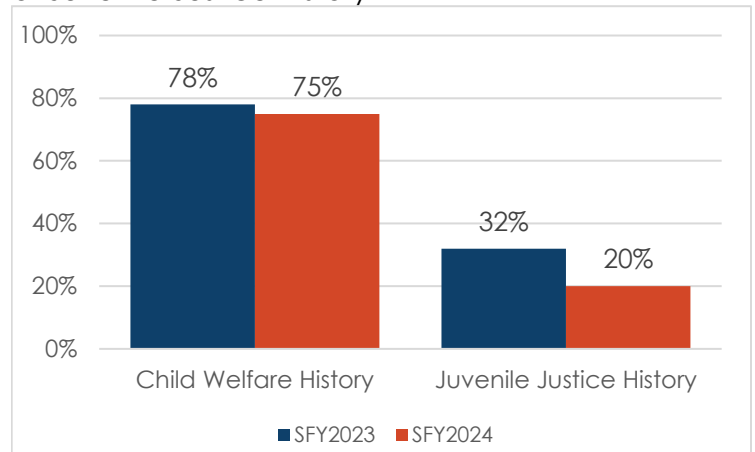
1. Complete a [CHINS Referral Form](#).
2. Submit the Referral Form
 - o Fax: (701) 328-0104

	SFY2023	SFY2024
Total Referrals	2,491	2,117
Total Children	1,493	1,452
Median Age	14 Years	15 Years
Top Living Situation	In Home (89%)	In Home (91%)
Top Referral Source	Law Enforcement (67%)	Law Enforcement (67%)

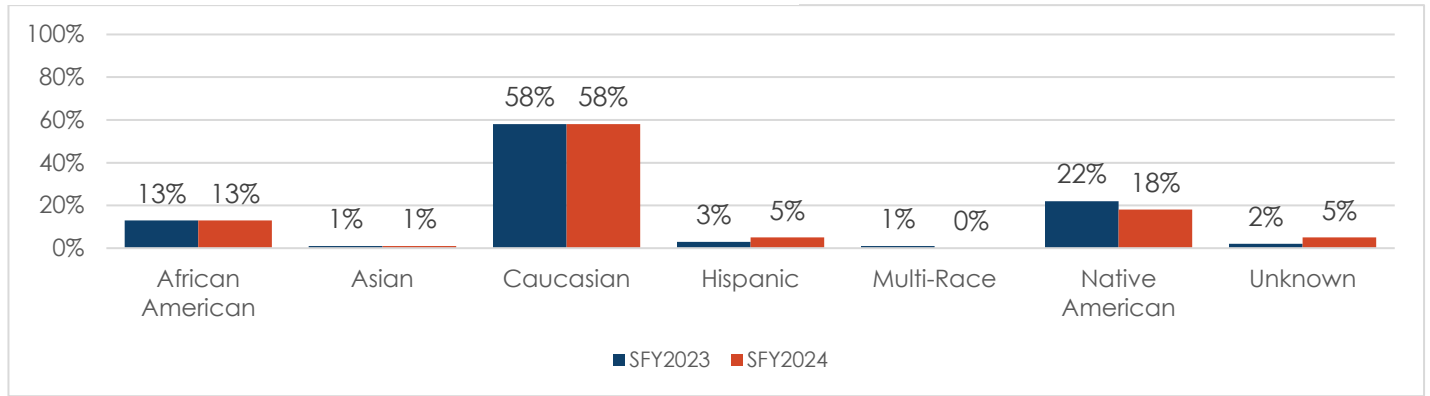
Total Referrals by Category



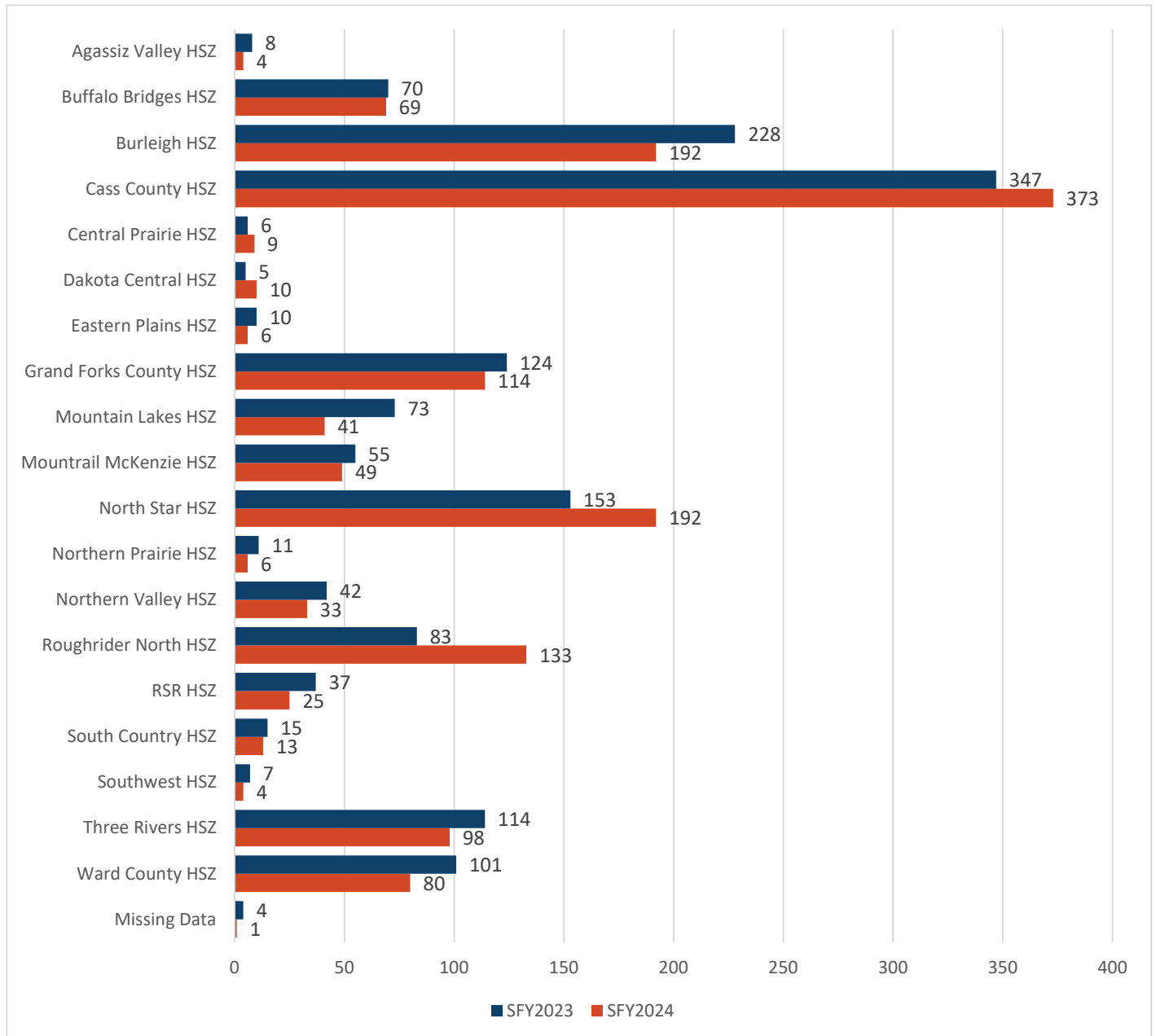
Percentage of Children with Child Welfare or Juvenile Justice History



Total Children by Race



Total Children by Human Service Zone



Children and Family Services Section

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